

# Proposals for improvements of EU legislation



TIME-SAVING  
INCREASED INVESTMENTS  
REDUCED UNCERTAINTY  
REDUCED COSTS



**NNR**

BOARD OF SWEDISH  
INDUSTRY AND COMMERCE  
FOR BETTER REGULATION  
- CUTTING RED TAPE FOR BUSINESS -

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## Taxation/VAT

### 1. Reduced burden of proof - intra-community trade

#### Legislation

EU VAT Directive Council 2006/112

#### Burden on business

As a general rule, intra-community supplies of goods are exempt from VAT if the purchaser is registered for VAT in another Member State. Instead, it is the purchase in such transaction that is subject to VAT. For the purpose of qualifying for this exemption, the supplier is required to document and prove that the goods in question have been transported within the EU and that the purchaser is registered for VAT in any other Member State. Lately, business has experienced stricter requirements from a number of Member States in terms of documenting and proving that the supply is a cross border intra-community supply. An unreasonable level of proof for purpose of VAT may make businesses elect less efficient transport logistics, for the purpose of qualifying for the VAT exemption.

The increased burden of proof in certain Member States is a serious obstacle for intra-community trade that requires urgent measures. Today, the logistics flows are set up with the focus of environmental care, cost and time savings and should not be hindered by the VAT rules. Problematic requirements have been identified in the UK, Germany, Denmark, Italy, Czech Republic, Austria, and Slovak Republic. Other Member States, such as Poland, Spain and the Netherlands, have also been identified as "problematic".

#### Simplification proposal

Simplified burden of proof regarding intra- community trade.

The EU must support legitimate business against unreasonable administrative burden in respect of VAT. Member States must use effective tools against VAT fraud that will support and not hinder business transactions within the EU.

#### Effects of the simplification proposal

- Time-saving
- Reduced costs
- Increased investments
- Reduced uncertainty

#### Contact information

Confederation of Swedish Enterprise  
Tax dep. Anna Sandberg Nilsson  
T: +46 8 553 432 55 M: +46 70 255 48 14  
[anna.sandberg.nilsson@svensktnaringsliv.se](mailto:anna.sandberg.nilsson@svensktnaringsliv.se)

## **2. Modernized VAT-rules for public bodies and transactions**

### **Legislation**

EU VAT Directive Council 2006/112

### **Burden on business**

The current VAT rules in the public sector are not neutral and distortion of competition is becoming a serious problem.

An increasing number of companies have highlighted the negative impact on business created by the combination of exemptions, higher VAT-rates within EU and no input-VAT deduction. The current VAT rules leads to cascade effects, self-supplies and a disincentive to invest or to outsource even where services could be provided more efficiently by another entity if the VAT aspect was irrelevant.

### **Simplification proposal**

The VAT rules for public bodies and for transactions in the public interest need to be modernized. Redraft article 13 in order to establish a level playing field between the public and private sector.

Introduce measures which lead to deductibility of input VAT with regard to activities in the public interest.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

Confederation of Swedish Enterprise

Tax dep. Anna Sandberg Nilsson

T: +46 8 553 432 55 M: +46 70 255 48 14

[anna.sandberg.nilsson@svensktnaringsliv.se](mailto:anna.sandberg.nilsson@svensktnaringsliv.se)

### **3. EU harmonized definition or clear guidance regarding the distinction between single and composite supplies**

#### **Legislation**

EU VAT Directive 2006/112

#### **Burden on business**

One of the most complex issues regarding VAT is how to assess sales consisting of several elements. For the purpose of VAT, one must determine whether such sales should be deemed to be taxed as one single supply or several supplies. There is no clear guidance in the VAT Directive in this respect. Instead, business is dependent on guidance from their respective tax authority and the courts. This is a general question with wide effect on the taxation for VAT purposes since it affects area as place of supply, VAT rates, exemptions, use of specific rules as reverse charge for the building sector etc.

A Swedish survey in 2012 regarding the local guidelines showed a lack of coherence in the guidance and practice, insufficient reasoning in the assessments, diverse treatment for different industries, different treatment for similar transactions and references to obsolete case law. This study shows the need for a harmonized definition or clear guidance from the EU regarding the distinction between single and composite supplies.

#### **Simplification proposal**

The Commission should present a definition or guidance in explanatory notes on the distinction between single and composite supplies.

#### **Effects of the simplification proposal**

Time-saving  
Reduced costs  
Increased investments  
Reduced uncertainty

#### **Contact information**

Confederation of Swedish Enterprise  
Tax dep. Anna Sandberg Nilsson  
T: +46 8 553 432 55 M: +46 70 255 48 14  
[anna.sandberg.nilsson@svensktnaringsliv.se](mailto:anna.sandberg.nilsson@svensktnaringsliv.se)

#### **4. VAT reporting threshold for the 2015 EU VAT MOSS regime**

##### **Legislation**

EU VAT Directive 2006/112

##### **Burden on business**

Since 1st January 2015 VAT on telecommunications, broadcasting and electronic services B2C is levied in the country where the customer is located, and not where the supplier is based. To make it easier for businesses a MOSS (mini-one-stop-shop) regime was introduced. The MOSS regime makes it possible to supply these services in a number of member states and yet only register for VAT in one.

Even with the MOSS regime introduced, levy VAT in the customer's country is burdensome for small businesses. The cost of managing VAT on supplies of such services B2C in other member states might even be higher than the profit of making such supply. This has forced small businesses into using online market places that handles the VAT for them; or to bluntly stop supplying these services cross border in the EU.

##### **Simplification proposal**

A possibility for small businesses to use a VAT reporting threshold on B2C sales across EU.

##### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

##### **Contact information**

Confederation of Swedish Enterprise

Tax dep. Anna Sandberg Nilsson

T: +46 8 553 432 55 M: +46 70 255 48 14

[anna.sandberg.nilsson@svensktnaringsliv.se](mailto:anna.sandberg.nilsson@svensktnaringsliv.se)

## Health and Safety

### 5. Less detailed rules on the protection of young people at work

#### Legislation

Council Directive 94/33/EC

#### Burden on business

The directive contains regulations on child labour, protection of children, youth work and working time. However, the directive is far too complex and detailed and should leave more to the member states to decide.

#### Simplification proposal

Make the regulations less detailed. It is, for example, better to regulate the working time per week instead of per day.

#### Effects of the simplification proposal

Time-saving

Reduced costs

#### Contact information

Confederation of Swedish Enterprise

Bodil Mellblom

T: +46 8 553 431 47

[bodil.mellblom@svensktnaringsliv.se](mailto:bodil.mellblom@svensktnaringsliv.se)

## **6. Flexible implementation of the directive on the organization of working time**

### **Legislation**

Directive 2003/88/EC

### **Burden on business**

The directive demands that all the regulations in detail are implemented in the member states, without prejudice to the level of protection that already exists at national level. A detailed implementation, together with existing national regulations, makes it difficult for the enterprise to fulfill all of the obligations. In a Swedish context regulations about night work and compensatory rest are burdensome to comply with.

### **Simplification proposal**

Allow for implementation of the directive to be done in a way that complies with the demands at national level without the need to implement every detail. The Commission should reconsider the so called "non-step back clause" in favour of appropriate protection of health and safety, but at the same time compatible with better regulation.

### **Effects of the simplification proposal**

Reduced costs

Reduced uncertainty

### **Contact information**

Confederation of Swedish Enterprise

Karin Ekenger

T: +46 8 553 43 125

[karin.ekenger@svensktnaringsliv.se](mailto:karin.ekenger@svensktnaringsliv.se)

## Public procurement

### 7. Prohibit social requirements in public procurements that are in conflict with EU's basic principles on equal treatment and non-discrimination

#### Legislation

Art 18.2 and Art 67 and 68 in Directive 2014/24/EU, Directive 2014/15/EU

#### Burden on business

The European regulatory framework regarding public procurement has as one of its aims to encourage the development of an internal market. This through among other things harmonized legislation and EU's basic principles which will secure that European businesses will compete on the same terms.

Directive 2014/24/EU of 26 February 2014 on public procurement and Directive 2014/25/EU of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors contains several parts that can imply restrictions on free competition on the internal market. Article 18.2 in 2014/24/EU has led to that countries like Sweden now interprets it possible to demand social and labor related requirements in public procurements to a much greater extent than earlier. These requirements can lead to barriers to both Swedish SMEs and businesses from other member states. Article 67 and 68 of the same directive may have similar exclusionary effects.

#### Simplification proposal

Change the EU directives to ensure that social requirements in public procurements that are in conflict with EU's basic principles on equal treatment and non-discrimination are prohibited.

#### Effects of the simplification proposal

Reduced uncertainty  
Increased business opportunities  
Increased growth

#### Contact information

The Employers' Organisation for the Swedish Service Sector, Almega  
Stefan Holm  
T: +46 8 7626994  
[stefan.holm@almega.se](mailto:stefan.holm@almega.se)

## Transport

### 8. Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights

#### Legislation

Regulation (EC) No 261/2004

#### Burden on business

Regulation of airlines compared to other modes of transportation is disproportionately strict. The costs for the airlines are often massive relative to the harm travellers have suffered. Interpretation of the regulation differs in Member States, causing great uncertainty about the airlines' obligations towards passengers. A big problem is the lack of a uniform interpretation of "extraordinary circumstances" among consumer organizations and airlines. Rulings in several high profile cases have significantly increased the levels of compensation to be paid by airlines.

Air safety is a given in all airlines and the high flight safety has evolved through persistent work in industry to minimize damage to people and the environment while minimizing the cost of operations. Delays, cancellation or rescheduling of flights take place only when the flight safety may be at risk and solely to avoid jeopardizing the safety of passengers or the aircraft's crew.

It should be noted that any changes to scheduled flights disrupts airline planned activities and highest priorities given to avoid changes in the flight schedule. Legislators need to acquire a better understanding of how regulation works and what impact future revisions will get both for passengers and for airlines. Airlines are currently punished for their aspirations to maintain a high level of flight safety.

Suggestions for future (up-coming) revision risk impairing the passenger's opportunities to seamlessly travel while increasing costs for airlines. So called interlining between airlines enabling passengers to transfer from one airline to another in an airport in a smooth way, with current proposals comes to an end.

#### Simplification proposal

The next revision of the regulation must take into account the airline's ambition to deliver its services with the highest level of aviation safety. The airlines should not be punished for delivering a safe and secure service to their customers in a disproportionate manner. Obligation to provide care should be done in a cost-reasonable manner and on the same level as required for other modes of transport. Harmonization and compliance with application across the Member States have to ensure that competition between airlines or other transport modes is not distorted.

**Effects of the simplification proposal**

Time-saving

Reduced costs

Reduced uncertainty

**Contact information**

Svenska FlygBranschen (Swedish Aviation Industry Group)

Jan-Olov Bergling

T: +46 733-85 85 80

[jan.bergling@transportforetagen.se](mailto:jan.bergling@transportforetagen.se)

## **9. Reduced administrative burden for verification, monitoring and reporting of greenhouse gas emissions**

### **Legislation**

Commission Regulation EU No 600/2012 and Commission Regulation EU No 601/2012

### **Burden on business**

The system for monitoring, reporting and verification (MRV) is unjustifiably complex. Already at information meetings and referral process the airline industry stated the unnecessarily complexity of the system. Fuel costs are the largest cost for an airline and the companies do their best to reduce fuel consumption by switching to aircraft with improved fuel economy and shifting to shorter flight paths and fuel-saving approach procedures.

A system that requires monitoring, reporting and verification of tonne-kilometres flown level for each sector is unjustified and overly burdensome. Reporting in itself does not mean that greenhouse gas emissions are reduced. It entails higher costs for airlines, reducing their economic ability to switch to more efficient aircraft. Airports and airlines have had a well-developed reporting system for a long time, monitoring and reporting all air traffic to the Transport Agency. Fuel Companies and carriers have full control over how much fuel each airline purchases annually, which should be quite sufficient as a basis for purchasing and accounting of allowances.

The current systems for MRV may be a disadvantage for a speedy agreement on a global system to reduce aviation greenhouse gas emissions that are discussed within the framework of ICAO.

### **Simplification proposal**

A significant shift in the entire MRV system should be undertaken promptly to reduce completely unnecessary bureaucracy and simplify the airlines. The reporting of airline emissions should be done by checking the kerosene fuel purchases (invoices), easily done by auditors and can be, if necessary, verified by fuel companies. Verification can also be done by comparing to the Authority on reported traffic towards purchased jet fuel.

### **Effects of the simplification proposal**

Time-saving  
Reduced costs

### **Contact information**

Svenska FlygBranschen (Swedish Aviation Industry Group)  
Jan-Olov Bergling  
T: +46733-85 85 80  
[jan.bergling@transportforetagen.se](mailto:jan.bergling@transportforetagen.se)

## 10. Separate regulations for driving times and rest periods for road haulage and bus/coach traffic

### Legislation

EU Regulations for driving times and rest periods:

- EG/561/2006
- EEG/3821/85
- EU/165/2014

### Burden on business

The demand for information is disproportionately high and involves a heavy burden of work and administration for a bus company. Minor offenses lead to disproportionate penalties, for example, a number of minute's breaches gathered leads to withdrawal of operating licenses and / or the traffic manager may not continue to operate.

### Simplification proposal

Separate regulations for driving times and rest periods for road haulage and bus/coach traffic respectively. Bus traffic in scheduled services is run on the basis of timetables. Current regulations are also particularly badly suited to the needs of coach traffic.

### Effects of the simplification proposal

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

40% of all Swedish transport company state that these regulations constitutes a major obstacle for growth (see Report from "Swedish Agency for Economic and Regional Growth" 2014). Every bus company needs a comprehensive administration of regulatory frameworks, costing businesses upwards of 2 per cent of the total expenditure. There is no current economic assessment of the cost for bus companies, but it is likely that these regulations will cost the industry up to SEK 100 million per year.

### Contact information

Swedish Bus and Coach Federation

Anna Grönlund

T: +46 8 762 71 74

[anna.gronlund@transportforetagen.se](mailto:anna.gronlund@transportforetagen.se)

## Internal market for services

### 11. Ensure the full implementation of the Services Directive

#### Legislation

Services Directive 2006/123/EC

#### Burden on business

The Service Directive has not been fully implemented across the EU. And it still allows European states the ability to maintain far too many restrictions in their services markets. The European Commission has predicted a potential gain of 1.8 % of EU GDP if EU states were to remove all outstanding EU barriers to trade in services. It is also clear that more ought to be done to raise performance on services integration.

This becomes even more important at a time when Europe needs to boost competitiveness and realize untapped potential for growth: also through free trade agreements with third countries, either within the framework of the WTO (which is currently negotiating a plurilateral services agreement – TiSA) or bilaterally with the US through the Transatlantic Trade and Investment Partnership, TTIP

#### Simplification proposal

The European Commission should ensure the full implementation of the Services Directive across the EU by putting more pressure on Member States failing to comply with agreed provisions.

#### Effects of the simplification proposal

- Time-saving
- Reduced costs
- Increased investments
- Reduced uncertainty

#### Contact information

Confederation of Swedish Enterprise  
Karin Atthoff  
T: +32 471 782 487  
[karin.atthoff@svensktnaringsliv.se](mailto:karin.atthoff@svensktnaringsliv.se)

## **12. Include health and elderly care in the provisions of the Services Directive**

### **Legislation**

Services Directive 2006/123/EC.

### **Burden on business**

As people increasingly move between EU Member States the demand for well functioning transnational health and elderly care increases. Companies active in health-and elderly care do not have access to an open European market. This sector was let outside of the provisions of the Services Directive.

New health care methods are often seen with suspicion by traditional medicine and officials. Where there are thorough research behind, there should be better possibilities to try new, effective methods for saving pain and hustle for patients and saving resources for governments.

Slow authorization administration delays and hampers the movement of nurses cross-border, causes extra costs for the company and its clients — in this case the private and public hospitals, extending the waiting time for the patients and thereby causes extra costs for society.

### **Simplification proposal**

Removal of remaining barriers to establishment, by including health-and elderly care in the provisions of the Services Directive and thereby giving companies working in this sector access to the full European Market. By this proposal, including health and elderly care in the provisions, we do not want to revise the Directive but include the sector in the advantages of the Services Directive in order to promote cross border services and raise the quality and effectiveness.

Additionally, simplify administrative requirements.

### **Effects of the simplification proposal**

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

Confederation of Swedish Enterprise

Cemille Üstün

T: +46 8 55343218

[cemille.ustun@svensktnaringsliv.se](mailto:cemille.ustun@svensktnaringsliv.se)

## Consumer legislation

### 13. Reduced information duties regarding dispute resolutions

#### Legislation

Consumer Rights Directive; 2011/83/EU, Directive 1999/44/EC, Directive 2013/11/EU amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

#### Burden on business

The various consumer Directives set forth a number of information duties on products that can become disinformation if the consumers fails to consider all the given information. According to the Directive, a seller has the duty to inform the consumer prior to concluding a contract on how a dispute can be resolved outside of court. This information is redundant since it is not prerequisite to conclude a contract or not. The information could instead confuse a consumer and distract him or her from other necessary information. The burden of the informational duty is heavy, since the type of information that shall be given differs from country to country and needs to be extensive to be understood.

#### Simplification proposal

Minimized or reduced information duties would make it simpler for the businesses. A study on a European level on the effects of and consumers understanding and use of existing information should be carried out. The burden of information regarding dispute resolution should be laid on the dispute resolution body instead of the seller.

#### Effects of the simplification proposal

Time-saving  
Reduced costs  
Increased investments

#### Contact information

Swedish Trade Federation  
Anna-Karin Strömquist  
T: +46 10-47 18643  
[anna-karin.stromqvist@svenskhandel.se](mailto:anna-karin.stromqvist@svenskhandel.se)

## Trade

### 14. Address regulatory barriers that inhibit business' possibilities to trade and invest

#### Legislation

Remove barriers to international trade. Completing ambitious EU Free Trade Agreements (FTAs) and the Transatlantic Trade and Investment Partnership (TTIP)

#### Burden on business

Greater regulatory coherence would boost innovation and competition. Different product standards between the EU and US hinder trade. TTIP is an important opportunity to boost the transatlantic economy by aligning standards with our biggest trading partner.

Continue to pursue an ambitious free trade agenda. FTAs make it easier and cheaper for companies to trade outside the EU. They address the traditional obstacles that inhibit trade such as tariffs and export subsidies. They also address non-tariff barriers such as labelling or product testing standards.

The European Commission is negotiating FTAs with among others the US, Japan, India and a number of ASEAN countries at the same time as new FTAs and upgrading old ones are considered.

#### Simplification proposal

The Commission must address the regulatory barriers that inhibit trade, and pursue an ambitious free trade agenda — notably in the TTIP, given the potential value of the deal.

#### Effects of the simplification proposal

Time-saving  
Reduced costs  
Increased investments  
Reduced uncertainty

#### Contact information

Confederation of Swedish Enterprise

Olof Erixon and Niklas Bergström

T: +46 8 55343046 or +46 8 55343143

[olof.erixon@svensktnaringsliv.se](mailto:olof.erixon@svensktnaringsliv.se) or [niklas.bergstrom@svensktnaringsliv.se](mailto:niklas.bergstrom@svensktnaringsliv.se)

## **Agriculture**

### *Simplification proposals*

#### **15. Notify all on-the-spot checks on farms**

##### **Legislation**

COMMISSION REGULATION (EC) No 882/2004 and 809/2014

##### **Burden on business**

Today the legal framework seems to be based on the notion that on-the-spot-controls (OTSC) should be performed unannounced, in order to deliver correct results. This reflects an unrealistic demand for perfection in every detail, rather than a demand for performance with high quality of the agricultural activity, in accordance with the purpose of all requirements.

The focus of the OTSC should be to find out if the farmer has reliable routines which ensure that the purpose of the requirements are fulfilled, instead of focusing on the execution of minor details in the requirements, which can be corrected within a few hours or days. If the farmer lacks these reliable routines, it will be almost impossible to comply with the purpose of the requirements, even if the OTSC is announced a few days ahead, as a general rule.

Announcing the OTSC for the farmer a few days ahead will certainly ease the perceived administrative burden for the farmer. It will also allow for quicker and more efficient visits, since the farmer can prepare and plan for the visit. A notice in advance will also show consideration of the farmers work. Especially if the farmer has animals that needs to be taken care of or if the revision takes place during harvest time. A sick cow, a calving cow or harvesting of crops cannot wait.

However, certain requirements, like of animal welfare based on risk or indications, might be better performed unannounced.

##### **Simplification proposal**

All OTSC should be notified in advance. At least 48 hours. Notified OTSC results in higher quality and signals a better trust in the farmers. Although in cases with severe circumstances e.g. animal suffering or if there is a strong suspicion that the purpose of the OTSC will be jeopardized, the OTSC should not be notified.

##### **Effects of the simplification proposal**

Time-saving

Reduced costs

Reduced uncertainty

**Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **16. How to prove costs related to eligibility**

### **Legislation**

Agricultural legislation (EU)

### **Burden on business**

There are a lot of administrative burdens related to control receipts, costs and proof of payment. The use of lump sums etc. will reduce the errors rates, reduce costs related to control and simplify the application process for farmers or other beneficiaries.

### **Simplification proposal**

As a general principle it should be possible to apply average or standard costs or lump sums to a larger extent than today.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **17. Clear and distinct texts in EU agricultural legislation**

### **Legislation**

Agricultural legislation (EU)

### **Burden on business**

Sometimes the legal texts are unclear and difficult to understand due to the use of technical legal terms. Clear legal texts will reduce the risk for misunderstandings.

### **Simplification proposal**

The use of technical legal terms should be avoided, for example the terms “Ipso facto” and “pro-rata” should be avoided.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **18. Risk based sample of controls and audits**

### **Legislation**

Agricultural legislation (EU)

### **Burden on business**

Risk based controls and audits would ensure an efficient use of resources compared to audits based on random samples.

### **Simplification proposal**

The sample of controls and audits should be risk based.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **19. Harmonize the procedures and methods for audit**

### **Legislation**

Agricultural legislation (EU)

### **Burden on business**

There are too many levels of controls with different audit methods that are not harmonized. Harmonized procedures would ensure a more efficient audit procedure.

### **Simplification proposal**

Harmonize the procedures and methods for audit.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **20. Definition of an active farmer**

### **Legislation**

Article 9 (EU) No 1307/2013

### **Burden on business**

The current definition of an active farmer increases the administrative costs for both farmers and authorities. The cost-effectiveness of the definition is questioned. It is very important that support from the CAP is targeted to active farmers.

However, a negative list might not be the most appropriate way of targeting the support. First of all, the negative list might affect farmers that have diverse activities at the farm, for example an active farmer that also has some kind of sport activity at the farm.

Secondly, we already have rules on how to exclude ineligible land from support, such as golf courses or racing courses. The ongoing milk crisis reveals how important it is for farmers to have more than one source of income. In Sweden the rules on how to exclude ineligible land from support has worked very well. There has not been any major critique or problem related to support being distributed to non-farm-companies.

### **Simplification proposal**

There is a need to thoroughly evaluate the cost-effectiveness of the definition. It should be considered if the negative list could be deleted or made voluntary for Member States to apply.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **21. Criteria for proving exemption based on agricultural income**

### **Legislation**

Article 13 (EU) No 639/2014

### **Burden on business**

The current rules on criteria for proving exemption based on agricultural income, is too complex and complicated to understand and apply correctly. This causes a lot of administrative burdens for both companies and authorities.

### **Simplification proposal**

There should be a possibility for the member state to adjust the calculation/definition of agricultural income to parameters used, known and easily retrievable for all parties in the Member State concerned.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## 22. Definition of permanent sport and recreational grounds

### Legislation

Guidelines on an active farmer

### Burden on business

The meaning and definition of permanent sport and recreational grounds in the context of the active farmer clause is problematic since sports and recreation often are activities provided for on diversified farms. According to the guidance document the aim is “targeting specialized operators of permanently existing areas of land with permanent fixtures and/or permanent artificial structures for spectators that are being used for a purpose of sport and recreational activities”.

The clarification of permanent sport and recreational grounds in the Commission’s guidelines on an active farmer will have the effect that diversified farms are at risk of being on the negative list. A farmer that has diversified his/her farm by arranging for example horse shows or another sport/recreational activity with a permanent structure for spectators is according to the guidance on the negative list and should therefore be excluded from support (if no derogation is applicable). Member States should be able to further develop the meaning of a permanent sport and recreational ground in a national context.

### Simplification proposal

The presence of “permanent fixtures” and “permanent artificial structures” is unclear. These terms should be developed, for example the extent, scope or number of fixtures and structures that qualify for the negative list could be mentioned. It is not reasonable that a small permanent structure for spectators means that the company is put on the negative list.

It should also be considered to delete the terms from the guidance in order to let Member States develop the meaning of a permanent sport and recreational ground.

### Effects of the simplification proposal

- Time-saving
- Reduced costs
- Increased investments
- Reduced uncertainty

### Contact information

The Federation of Swedish Farmers - LRF  
Dairy Sweden  
Suzanne Céwe  
T: +46 8 787 53 99  
[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **23. Application of support – declaration of an active farmer**

### **Legislation**

Article 14.1(f) and (h) (EU) No 809/2014

### **Burden on business**

The current provision means that farmers have to declare negative-list activity in the single application at a certain date and provide evidence proving that he/she is an active farmer at the latest on the last day for amending the aid application. Article 14.1 (H) implies that the application is not complete without the declaration of the activity, if the farmer has this activity or manages one in an affiliated company.

This is unfortunate since several of the negative-list activities are ambiguous and the consequences of such activity or non-declaration of it is very severe. In combination with a requirement/method that any evidence provided during a control is not valid even though the farmer clearly is fulfilling the definition is especially unfortunate. This is a too stringent way of implementing the definition, especially the first year of implementation. It is not reasonable that evidence is not valid for example during a control if the authority questions the eligibility.

The active farmer clause is a new provision with unclear terms such as “real estate services, permanent sport and recreational grounds”. It is very difficult for the applicant to predict whether he/she is on the negative list and might therefore send in evidence “just in case”. This causes unnecessary administrative burdens for authorities and also worries for farmers.

### **Simplification proposal**

It should be possible for farmers to prove the fulfilment of an exemption from the requirement after the last day of amending the application, even if the activity is not declared in the single application.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **24. Greening – simplify hectare derogations**

### **Legislation**

Article 44 and 46 (EU) No 1307/2013

### **Burden on business**

Different minimum hectare thresholds for the two requirements makes the rules more difficult to understand and hence more complex for the farmers. Especially for crop diversification the current thresholds are unfavourable for smaller farms and may increase their costs without any real benefit for the environment. A higher threshold would recognize the diversity that is already delivered by smaller farms.

### **Simplification proposal**

The hectare thresholds for derogations from greening should be evaluated and the minimum threshold aligned for the two requirements. Also consider increasing the threshold. One idea is to relate the threshold to the median farm size in the MS.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **25. Greening – simplify the crop cultivation period**

### **Legislation**

Article 40 (EU) No 639/2014 and the proposal on control regime for greening in Article 24 and 26.4 in (EU) No 809/2014.

### **Burden on business**

The requirement of proving and controlling the share of different crops within the most relevant cultivation period leads to reduced flexibility for farmers and a barrier for an effective control regime for authorities.

The costs and worries that are expected due to the requirement are not proportionate to the rather limited positive effects of the crop diversification rule (effects according to COM's impact assessment).

The cultivation period also differs widely between crops.

The requirement does not make it possible to control all eligibility criteria at the same time which is why the on-the-spot-checks have to be made at several visits. This is burdensome for both farmers and administration.

### **Simplification proposal**

It should be possible to control crop diversification on the basis of the farmers' aid application and there must be some flexibility in what kind of evidence that is acceptable to prove the fulfilment of the requirement. Preferably the reference in Article 40 to a specific cultivation period should be deleted.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **26. Greening – reduce the number of weighting factors**

### **Legislation**

Annex X (EU) No 1307/2013

### **Burden on business**

The many different weighting factors make a complex system for calculating the value and size of ecological focus areas. The difference in weighting between some EFAs are not possible to explain.

Salix and catch crops/green cover have widely recognized positive impacts on the environment. By giving them the same weighting factor as nitrogen fixing crops the number of factors can be reduced and the unjustified difference between EFAs eliminated.

### **Simplification proposal**

Reduce the number of weighting factors by increasing the factor for short rotation coppice and catch crops/green cover to 0,7.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **27. Simplify the regulation on maintenance of permanent grassland**

### **Legislation**

Article 45 (EU) No 1307/2013

### **Burden on business**

There is a risk that the rule on keeping the share of permanent grasslands on national level actually leads to contra-productive behaviour which will reduce the share of permanent grassland. These effects cannot be avoided through regulation. Such effects would mean that the rule is inefficient and lead to undue costs and worries for farmers.

Environmentally sensitive permanent grasslands are now protected through the regulation; hence the need to generally maintain permanent grasslands is reduced.

### **Simplification proposal**

An assessment needs to be made whether the measure of keeping the share of permanent grassland at a national level is effective. Consider abolishing the requirement on the basis that environmentally sensitive permanent grasslands are now protected.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **28. Establish a clear distinction between permanent grassland and arable land**

### **Legislation**

COM guidelines on LPIS

### **Burden on business**

The current guidance, where fallow arable land covered by grass sometimes can be used as EFAs and other times not, contribute to complexity. It will also lead to actual ploughing of permanent grassland/fallow arable land since it is the only way to be able to use them as EFAs.

### **Simplification proposal**

Keep a clear distinction between permanent grassland and arable land by letting fallow arable land be labelled as arable land, independent of cover.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## 29. Access of legal persons to the payment for young farmers

### Legislation

Article 49 (EU) No 639/2014

### Burden on business

The current rules on payment for young farmers in pillar I and the business start-up aid for young farmers in pillar II are not harmonized. At the moment it is not possible to control the access of legal persons to the payment for young farmers in pillar I by analysing the ownership status. This causes administrative burdens for authorities when controlling eligibility and for farmers to prove the effective and long-term control over the legal person. By harmonizing the rules so that it is possible to analyse the ownership status for both support schemes it will be simpler for farmers to understand the rules and to prove the effective and long-term control over the legal person and it will also be simpler for the authorities to control eligibility.

### Simplification proposal

Amend Article 49 in (EU) No 639/2014 so that it is possible to analyse ownership status when assessing the access of legal persons to the payment for young farmers in pillar I.

### Effects of the simplification proposal

Time-saving  
Reduced costs  
Increased investments  
Reduced uncertainty

### Contact information

The Federation of Swedish Farmers - LRF  
Dairy Sweden  
Suzanne Céwe  
T: +46 8 787 53 99  
[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture  
Lars Hansson  
T: +46 36 15 60 65  
[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **30. Financial discipline**

#### **Legislation**

Article 26 (EU) 1306/2013

#### **Burden on business**

The current rule means farmers will get a reduction of payment every year due to financial discipline in order to establish the crisis reserve. If the crisis reserve is not used the money left shall be reimbursed to the farmers concerned. This does not seem to be the most cost-efficient way to establish the reserve.

A yearly withdrawal and a yearly reimbursement cause unnecessary administrative burdens for authorities and burdens and confusion among farmers when they get an extra withdrawal and extra payment every year.

#### **Simplification proposal**

It should be possible to establish the crisis reserve once and then fill it when needed so that the yearly process of reimbursement is avoided.

#### **Effects of the simplification proposal**

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **31. Decrease of control rate**

### **Legislation**

Article 36 (EU) No 809/2014

### **Burden on business**

The current rules only provides for the possibility to decrease the control rate for basic payment, SAPS, redistributive payment, small farmers scheme and agri-environmental support.

There is no reason for excluding the greening payment from the provisions in Article 36 in (EU) No 809/2014 since the greening payment also is an area-related support which is controlled within IACS.

### **Simplification proposal**

It should be possible for Member States to also decrease the control rate for the greening payment on the same conditions as for the other support measures.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **32. Simplify the control of greening**

### **Legislation**

Article 24 and 26.4 (EU) No 809/2014

### **Burden on business**

The current rules require that for a certain percentage, all eligibility criteria for the greening payment have to be checked on-the-spot. This means that the on-the-spot-check often has to be performed during several visits so that all criteria can be checked.

When the on-the-spot-checks have to be performed during several visits it causes extra burden on farmers. Furthermore, it will be more difficult for the control bodies to coordinate and plan the on-the-spot-checks. It will also increase costs for the control bodies.

### **Simplification proposal**

The control of the greening payment should be amended in line with the cross-compliance system. This means that only the criteria that can be checked at the time of the visit are checked. Account should still be taken to the timing of the on-the-spot-check and the possibility to check as many criteria as possible.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **33. Harmonization of the ESI funds regarding i.e. organization and reporting**

#### **Legislation**

Regulation (EU) no 1303/2013

#### **Burden on business**

The different ESI funds have different logics and administrative systems. Through harmonization and standardization simplification will be achieved at all levels, from the administrative level to the end users.

#### **Simplification proposal**

The Partnership Agreement is the first step towards harmonization.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **34. Administrative penalties area-related support**

#### **Legislation**

Article 19 and 28 (EU) No 640/2014

#### **Burden on business**

The current rules states that area-related non-compliances that are larger than 3 % or 2 ha should lead to administrative penalties. Having two different thresholds for applying administrative penalties have a disproportionate effect on farms. An area-related non-compliance of 2 ha may be less than a non-compliance corresponding to 3 % on a large farm. To only apply the 3 %-threshold is more proportionate.

#### **Simplification proposal**

Delete the 2 ha-threshold and keep the 3 %-threshold.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **35. Calculation, reductions and penalties of greening payment**

#### **Legislation**

Article 24-28 (EU) 640/2014

#### **Burden on business**

The current rules on calculation and reduction of the greening payment are disproportionate and difficult to understand for farmers. The actual reduction or sanction is very hard to relate to the actual non-compliance. Small errors may also lead to unreasonably large reductions. Furthermore, there are no rules on how to apply reductions when farmers are close to fulfilling the exemptions, e.g. the exemption for farmers with more than 75 % grassland.

The greening payment is a new system and it will be difficult for farmers to implement it exactly correct in the beginning. Therefore, appropriate tolerances for when to apply reductions should be introduced. For example, it is not reasonable that a farmer that has 74 % grassland, hence being very close to being exempted from a greening requirement shall be punished as if he/she was required to do greening as a whole.

#### **Simplification proposal**

A more proportionate and transparent model is needed.

There should be a separate set of rules for administrative penalties related to fulfilling the derogations.

Introduction of suitable tolerances for when to apply reductions.

Introduce a 3 year period, within which several non-compliances must have occurred in order to be regarded as repeated.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **36. Abolish the criteria of “intent” in the cross-compliance system**

#### **Legislation**

Article 99.3 (EU) No 1306/2013

#### **Burden on business**

The current rules mean that intentional non-compliances shall lead to a 20 % reduction of payment. Intent is hard to prove and intentional non-compliances may not always be severe. Since intent is hard to prove and may result in more costs than benefits, the word intentional should be deleted. Furthermore, intentional non-compliance may not always be severe. For example, a farmer may intentionally decide not to register a new born calf on the exact deadline due to unexpected circumstances. For example an on-the-spot-check or an urgent visit from a veterinarian.

#### **Simplification proposal**

Abolish the criteria of “intent” in the cross-compliance system.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **37. Cross-compliance – 3 % reduction as a general rule**

#### **Legislation**

Article 39.1 (EU) No 640/2014 and Article 99.1 (EU) No 1306/2013

#### **Burden on business**

Article 39.1 in (EU) No 640/2014 states that reductions on support should as a general rule be 3 %. In the meantime Article 99.1 in (EU) No 1306/2013 states that non-compliances should be assessed according to the criteria severity, extent, permanence and reoccurrence. This is contradictory.

The rule in Article 39.1 in (EU) No 640/2014 means that even though a non-compliance was assessed to cause a reduction of 1 % the reduction may have to be increased to 3 % in order to follow the rule on 3 % reduction as a general rule. The reduction is increased to 3 % in order to get a correct statistical result. This has a disproportionate effect on farmers' payments. Reductions should always be based on the authority's assessment according to the criteria severity, extent, permanence and reoccurrence of the non-compliance.

#### **Simplification proposal**

Delete the rule in Article 39.1 in (EU) No 640/2014 where it says that reductions on support should as a general rule be 3 %.

#### **Effects of the simplification proposal**

Time-saving  
Reduced costs  
Increased investments  
Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF  
Lars-Erik Lundkvist  
T: +46 8 787 53 05  
[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture  
Lars Hansson  
T: +46 36 15 60 65  
[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **38. One-year contracts for agri-environmental commitments**

#### **Legislation**

Regulation (EU) 1305/2013

#### **Burden on business**

Committing to long term contracts is challenging.

One-year contracts lead to simplification for farmers as well as authorities.

We also estimate more farmers to join the programme with shorter contracts.

#### **Simplification proposal**

One-year contracts for agri-environmental commitments.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **39. Clarify guidelines on lost ear tags**

#### **Legislation**

Guidelines on lost ear tags

#### **Burden on business**

The document on lost ear tags gives good guidance for Member States. However, there is no guidance on how to deal with minor non-compliances as regards reporting of incidents and record keeping.

It is important to have guidance from the Commission in order to get a correct and harmonized implementation among Member States.

#### **Simplification proposal**

Clarify and develop the guidelines on lost ear tags to also cover guidance on how to deal with non-compliances as regards reporting of incidents and record keeping.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **Agriculture**

### *Reviews and evaluations*

#### **40. Review of the 2 % materiality threshold**

##### **Legislation**

Agricultural legislation (EU)

##### **Burden on business**

For Sweden it is a priority to have a sound financial management of EU-funds. However a too low tolerance for errors places unproportional administrative burdens on the applicants, to supply the authorities with very detailed verifications and data to prove the eligibility. The costs and benefits of this thus needs to be analyzed and the 2 % materiality threshold should be reviewed for all support schemes.

##### **Simplification proposal**

The Commission should review, explain and develop the reasoning behind the 2 % materiality threshold for all support schemes.

##### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

##### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **41. Review of greening**

### **Legislation**

Article 43-47 (EU) No 1307/2013

### **Burden on business**

The greening requirements add substantial complexity to the Direct payments, while the effects and efficiency of the system could be questioned.

### **Simplification proposal**

A fundamental review of greening would be welcome, evaluating the costs and benefits of the greening payment, preferable already in 2017 or at least in the view of the next CAP reform. All parts of greening should be evaluated. An evaluation should preferably also include an analysis on how environmental benefits are best achieved within the CAP framework.

### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

## **42. More proportionate administrative penalties in the cross-compliance system**

### **Legislation**

Article 91 and 97-99 (EU) No 1306/2013

### **Burden on business**

The current system for penalties related to cross-compliance infringements is disproportionate and difficult to understand for farmers due to its complexity. The cross-compliance system is complex and difficult to understand for farmers, especially since the effective penalty is more related to the size of the payment than to the severity of the infringement. This causes worries and uncertainties as regards the size of the penalty to be applied in case of non-compliance. Among farmers there is today little acceptance for a system that sometimes implies disproportionate penalties. An example is that reductions on support should as a general rule be 3 % even though the non-compliance is minor to its nature (see proposal below).

### **Simplification proposal**

There is a need to evaluate the cross-compliance penalty system in order to find a more transparent and proportionate model. The different criteria for assessing the infringements should also be assessed. It should also be assessed to what degree an effective prevention of diseases should be related to the support system. In many cases minor infringements in reporting, ear tagging etc. causes administrative penalties even though there is no direct harm on the environment or the public or animal health.

### **Effects of the simplification proposal**

Time-saving  
Reduced costs  
Increased investments  
Reduced uncertainty

### **Contact information**

The Federation of Swedish Farmers - LRF  
Lars-Erik Lundkvist  
T: +46 8 787 53 05  
[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture  
Lars Hansson  
T: +46 36 15 60 65  
[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

### **43. Evaluate and reduce the number of rules in the cross-compliance system**

#### **Legislation**

Agricultural legislation (EU)

#### **Burden on business**

The number of rules and hence the risk for penalty differs between farmers with different types of production. For example, within SMR 4 there are many rules that only apply to the milk sector. There seems to be an unreasonably imbalance of the set of rules. Farms with animals have a lot more rules to comply with than other farms. Therefore farms with animals have a greater risk for being penalized due to cross-compliance infringements. This means that active farmers are disadvantaged due to the current cross-compliance system. This contradicts the aim of the CAP.

Furthermore, some rules have little relevance for agriculture and some are very difficult to control in a systematic manner.

#### **Simplification proposal**

There is a need to evaluate what rules that should apply within the cross-compliance system. Account shall be taken to the controllability of the rules, the relevance for the agricultural sector and the proportionate spreading and balance of rules between types of production.

#### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

#### **Contact information**

The Federation of Swedish Farmers - LRF

Dairy Sweden

Suzanne Céwe

T: +46 8 787 53 99

[suzanne.cewe@lrf.se](mailto:suzanne.cewe@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

#### **44. Cross-compliance – link to pillar II**

##### **Legislation**

Article 92 (EU) No 1306/2013

##### **Burden on business**

Today cross-compliance applies for both direct payments and agri-environmental commitments in pillar II.

As Rural development measures concern targeted payments based on individual requirements which go beyond the standards and requirements included in cross-compliance, it should be assessed whether it is justified to apply cross-compliance for agri-environmental measures carried out within pillar II. The links between the cross-compliance rules and the specific measures applied within pillar II are not always clear.

##### **Simplification proposal**

Assessment of the link between cross-compliance rules and agri-environmental commitments.

##### **Effects of the simplification proposal**

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

##### **Contact information**

The Federation of Swedish Farmers - LRF

Lars-Erik Lundkvist

T: +46 8 787 53 05

[lars.erik.lundkvist@lrf.se](mailto:lars.erik.lundkvist@lrf.se)

Swedish board of agriculture

Lars Hansson

T: +46 36 15 60 65

[lars.hansson@jordbruksverket.se](mailto:lars.hansson@jordbruksverket.se)

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## **CONTRIBUTORS**

NNR, the Board of Swedish Industry and Commerce for Better Regulation

**Andrea Femrell**, President and legally responsible for the compilation

**Christina Fors**, Senior Advisor and compilation author



# NNR, THE BOARD OF SWEDISH INDUSTRY AND COMMERCE FOR BETTER REGULATION

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Board of Swedish Industry and Commerce for Better Regulation, NNR  
P.O. Box 55695 | SE-102 15 STOCKHOLM | Visiting address: Storgatan 19  
Tel: + 46 8 762 70 90 | E-mail: [info@nnr.se](mailto:info@nnr.se) | Web address: [www.nnr.se](http://www.nnr.se)