



European  
Commission

# THE CONTRIBUTION OF PRODUCER ORGANISATIONS TO AN EFFICIENT AGRI-FOOD SUPPLY CHAIN



# Conference DG Agriculture and Rural Development 21 September 2018

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## INTRODUCTION

Agricultural producers often work together to achieve common interests. Their cooperation can enable producers to manage their risks better by planning production in accordance with demand, concentrating supply, pooling their resources, reducing their costs (for example through joint procurement or production support services), adding more value to their products (for example through distribution or processing), and reaching a scale that allows for access to other markets or to buyers who are looking for bigger quantities.

Agricultural legislation, in particular Regulation (EU) 1308/2013 of the European Parliament and of the Council establishing a common organisation of markets in agricultural products (CMO Regulation)<sup>1</sup> acknowledges the useful role that producer organisations (POs) and associations of such producer organisations (APOs) assume to strengthen the position of producers in the food supply chain and to contribute to CAP objectives. This is not only to the advantage of the producers – well functioning POs and APOs can also have a positive impact on the functioning of the food supply chain.

This booklet provides some background material to the conference on *The contribution of producer organisations to an efficient agrifood supply chain*, in particular on the number of POs and APOs in the European Union, on the legal framework and case law, and on findings of studies on producer cooperation.

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R1308>



# FIGURES ON POs IN THE EU

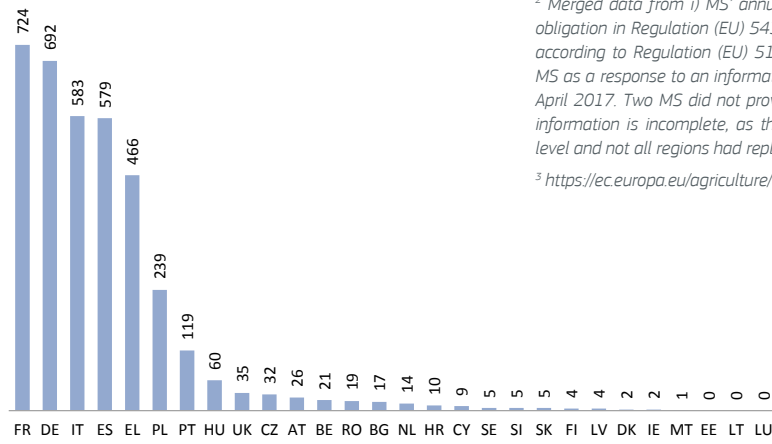
## Absolute figures

There are around 3 400 recognised POs in the EU. Only three Member States (MS) do not have any recognised PO (Estonia, Lithuania, Luxembourg). The remaining 25 MS have recognised POs. Top of the list is France with 721 recognised POs, followed by Germany (683), Spain (679), Italy (577), Poland (239), Greece (224), and Portugal (119) (Figure 1). A 67 further POs are distributed among the remaining 18 MS<sup>2</sup>.

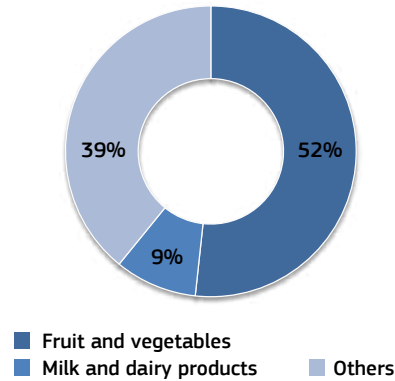
Apart from these POs, a total of 81 APOs have been recognised in nine MS, namely 30 in France, followed by Italy (19), Germany (9), Spain (7), Hungary (7), Greece (4), Belgium (3), Poland (1), and the UK (1).

If the recognised POs in the EU are divided in the three sectors 'fruits and vegetables', 'milk and dairy products', and 'other sectors'. The fruits and vegetables sector has the highest number of POs (1 763), followed by those in the 'other sectors' (1 334), which include in particular the wine, olive oil, cereals, and meat sectors. The remaining POs (312) are found in the milk and dairy sector (Figure 2)

**FIGURE 1:** Number of recognised POs by MS



**FIGURE 2:** Distribution of recognised POs between sectors



Preliminary results from an ongoing analysis of the best ways for producer organisations (POs) to be formed, carry out their activities and be supported, show that the gap between recognised and non-recognised POs is substantial. The 3 400 recognised POs represent only 16% of the estimated 21 027 POs and related entities that are operating throughout the EU<sup>3</sup>.

<sup>2</sup> Merged data from i) MS' annual reports following MS' reporting obligation in Regulation (EU) 543/2011; ii) annual reporting by MS according to Regulation (EU) 511/2012; and iii) data provided by MS as a response to an information request by the Commission of April 2017. Two MS did not provide any information. For Italy the information is incomplete, as the data is gathered on a regional level and not all regions had replied at the time of reporting.

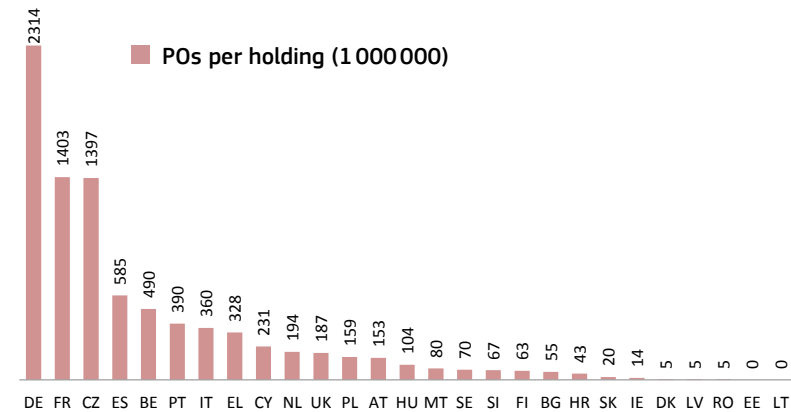
<sup>3</sup> [https://ec.europa.eu/agriculture/calls-for-tender/280414-2017\\_en](https://ec.europa.eu/agriculture/calls-for-tender/280414-2017_en)

## Relative figures

According to the most recent Eurostat data, there are 10.8 million agricultural holdings<sup>4</sup> in the EU<sup>5</sup>. While it is impossible to know how many holdings are organised in POs, an overview of the relative frequency of recognised POs in the EU can be given by calculating the number of recognised POs per 1 million agricultural holdings in each MS. Across the EU there are 254 recognised POs per one million agricultural holdings, on average.

Obviously the informative value of these relative numbers of recognised POs is limited as the figures do not take into account the size of the POs nor the share of holdings that cooperate in recognised POs: In a MS with few but very large recognised POs more farmers could be organised in such POs than in a MS with many but very small recognised POs. This limitation could be overcome by integrating future data on the relative size of the recognised POs or on the membership structure in each MS.

**FIGURE 3.2:** Relative frequency of recognised POs in the EU



<sup>4</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Agricultural\\_holding](http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Agricultural_holding)

<sup>5</sup> <http://ec.europa.eu/eurostat/en/web/products-statistical-books/-/KS-FK-16-001>

# LEGAL FRAMEWORK

The CMO Regulation regulates certain aspects of POs<sup>6</sup>. While not defining what a PO or an APO is, it contains several provisions relating to the **recognition of POs** and APOs and to the conditions under which these entities might enjoy a **derogation from the application of EU competition rules**, namely of the 'cartel prohibition' of Article 101 (1) of the Treaty on the Functioning of the European Union (TFEU)<sup>7</sup>, which prohibits agreements, decisions and concerted practices of competitors that restrict competition. According to Article 42 TFEU, EU competition rules shall apply to production and trade in agricultural products only to the extent determined by the European Parliament and the Council. The legislator determined in Article 206 CMO Regulation that EU competition rules do apply to agriculture, 'save as otherwise provided in this Regulation'.

The CMO Regulation contains in several places such derogations for the cooperation of agricultural produ-

cers. While some of these derogations apply to all agricultural sectors, others only concern specific agricultural sectors. Some of these derogations apply only to recognised POs and APOs, others apply to farmers or farmers' associations, whether they are recognised or not. And yet others address very specific situations, e.g. how to manage a severe market imbalance; the following overview describes these derogations.

The latest change to the CMO Regulation took place through the so-called *Omnibus Regulation*, which entered into force on 1 January 2018. In **Article 152 CMO** the CMO Regulation now contains an explicit derogation from Article 101 (1) TFEU for recognised POs and APOs. The provision applies to all agricultural sectors. To benefit from the competition derogation, a PO or APO must fulfil the conditions of recognition and additional conditions.



<sup>6</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R1308>

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>

## ARTICLE 152 CMO

### Recognition of POs by Member States

In order to be recognised, according to Article 152 (1) CMO Regulation, the PO must:

- file a request with the Member State,
- be constituted and controlled by producers in a specific sector listed in Annex I of the CMO Regulation,
- be formed on the initiative of producers,
- carry out at least one of the activities listed in Article 152 1 (b), e.g. jointly process, jointly package, jointly buy input products, etc.,
- follow an objective listed in Article 152 1 (c).

Except for some agricultural sectors, in which recognition is mandatory, the Member State **may** recognise the entity or not. As for the recognition of APOs, see Article 156 CMO.

In order to benefit from the derogation from Article 101 (1) TFEU, further conditions – beyond recognition – must be fulfilled.

### Derogation from Article 101 (1) TFEU

According to Article 152 1 (a) CMO Regulation, a PO may – on behalf of its members for all or part of their total production – plan production, optimise production costs, place on the market and negotiate contracts for the supply of agricultural products.

This requires in particular that the PO:

- genuinely exercises one of the activities mentioned in Article 152 1 (b) (i) to (vii),
- concentrates supply and places the products of its members on the market, regardless of whether the ownership for the products has been transferred to the PO.

APOs can benefit from the same derogation from Article 101 (1) TFEU, as long as they meet the above requirements.

POs and APOs that merely provide services to their members, without integrating an activity and without concentrating supply and placing products on the market, cannot benefit from the competition derogation.



**Article 209 CMO** Regulation, as amended by the Omnibus Regulation, provides farmers and their associations, as well as recognised POs and APOs, with the possibility to ask the Commission for an opinion on whether their agreements, decisions and concerted practices related to the production, sale of agricultural products, or use of joint facilities fall under the derogation of Article 101 (1) TFEU. The derogation applies to all agricultural sectors, but it contains three negative criteria, namely it does not apply to agreements and practices that (i) jeopardise the CAP objectives, (ii) entail an obligation to charge an identical price, or (iii) exclude competition.

**Article 222 CMO** Regulation gives farmers and their associations, as well as recognised POs/APOs and recognised interbranch organisations, the right to ask the Commission for the adoption of an implementing act in times of severe imbalance of markets to allow producers to collectively take certain measures, which otherwise might be prohibited under Article 101 (1) TFEU. In this case, and under the strict condition that such agreements do not undermine the proper functioning of the internal market and that they are temporary and strictly aim to stabilise the sector concerned, producers can collectively plan production or withdraw products from the market. After the Omnibus

Regulation it is no longer necessary that such acts are preceded by public measures for market stabilisation. This derogation applies to all agricultural sectors.

For certain sectors specific competition derogations apply. For instance according to **Article 149 CMO** Regulation, in the milk sector recognised POs are allowed to conduct contractual negotiations, i.e. bargain on behalf of their members a price for the sale of raw milk, without the need to integrate any activity for their members or to concentrate supply or put the products on the market. Under **Article 150 and 172 CMO** Regulation, for ham and cheese with protected designation of origin (PDO) or protected geographic indications (PGI), producers can take certain supply management measures. According to **Article 167 CMO** Regulation, such measures are also possible in the wine sector, however, here the right to ask for these measures is in particular granted to interbranch organisations (that have producers as members). Finally, under **Article 160 CMO** Regulation and in line with the principles established in the 'Endives judgment' (C-671/15 APVE)<sup>8</sup>, POs and APOs in the fruit and vegetables sector can also market the products of their members, and they can take certain measures to prevent and manage crisis situations (Article 33 CMO Regulation).



<sup>8</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62015CJ0671>

ARTICLE	ENTITY	SECTOR	SUMMARY
<b>Article 152</b> Producer Organisations	Recognised POs and recognised APOs	All agricultural sectors	<b>Under certain conditions, POs/APOs:</b> <ul style="list-style-type: none"> <li>may plan production,</li> <li>do contractual negotiations,</li> <li>place on the market, and</li> <li>optimise costs in derogation of Article 101 (1) TFEU.</li> </ul> <b>Conditions: see boxes above.</b>
<b>Article 209</b> Exceptions for the objectives of the CAP and farmers and their associations	Farmers, farmers' associations, recognised POs/APOs, and recognised milk POs	All agricultural sectors	Article 101 (1) TFEU does not apply to agreements related to the sale and production of agricultural products and joint use of facilities for storage, treatment or processing. Article 209 CMO does not apply to agreements, decision and practices entailing an obligation to charge an identical price or by which competition is excluded. It is possible to ask the Commission for an opinion.
<b>Article 222</b> Severe market imbalance	Farmers, farmers' associations, recognised POs and recognised APOs, recognised milk POs, and recognised interbranch organisations	All agricultural sectors	<b>The Commission may adopt an implementing act allowing:</b> <ul style="list-style-type: none"> <li>market withdrawal,</li> <li>transformation and processing,</li> <li>storage,</li> <li>joint promotion measures,</li> <li>agreements on quality requirements,</li> <li>joint purchase of inputs, and</li> <li>temporary planning of production.</li> </ul> <b>Conditions:</b> <ul style="list-style-type: none"> <li>severe imbalance in the market</li> <li>no undermining of the functioning of the internal market, and measures must strictly aim to stabilise the sector.</li> </ul>
<b>Article 125 and Annex I</b>	Recognised undertakings' and sellers' associations	Sugar	Agreements within the Trade, which are collective agreements of the sugar sector. They are concluded, prior to the conclusion of the delivery contract, between undertakings or an undertakings' organisation recognised by the MS concerned and a recognised sellers' association. delivery contract, between undertakings or an undertakings' organisation recognised by the MS concerned and a recognised sellers' association.
<b>Article 149</b>	Recognised POs and recognised APOs	Milk	<b>Contractual negotiations for the sale of raw milk, i.e. collective bargaining, are permitted if:</b> <ul style="list-style-type: none"> <li>the volume of raw milk covered by such negotiations does not exceed 3.5% of total Union production,</li> <li>the volume of raw milk covered by such negotiations (which is produced or delivered in any particular MS) does not exceed 33% of the total national production.</li> </ul>
<b>Article 150 /172</b> Regulation of supply for cheese and ham with PDO or PGI indication	Recognised PO, recognised interbranch organisation, group of operators	Ham and cheese	<b>MS may lay down binding rules for supply management for three years that shall:</b> <ul style="list-style-type: none"> <li>not allow for price fixing, including where prices are set for guidance or recommendation;</li> <li>not render unavailable an excessive proportion of the product concerned that would otherwise be available;</li> <li>not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected; and</li> <li>contribute to maintaining the quality and/or the development of the product concerned.</li> </ul>
<b>Article 160</b> Fruit and vegetables sector	Recognised POs and recognised APOs	Fruit and vegetables	POs and APOs can market the products of their members.
<b>Article 33</b> Operational programmes	Recognised POs and recognised APOs	Fruit and vegetables	POs and APOs are entitled to take certain crisis prevention and management measures.

# CASE LAW

## C-671/15 – APVE and Others ('Endives judgment')<sup>9</sup> On agreements between POs/APOs and agreements of producers within POs/APOs

The judgment deals with agreements between POs and agreements of producers within the recognised PO of which they are a member. While agreements between recognised POs or APOs are subject to the competition rules, agreements of producer members within their PO may not fall under Article 101 TFEU. Within a PO, the concertation of prices or quantities or exchanges of strategic information may not fall under the competition rules, if these agreements are necessary and proportionate so that the POs can fulfil the objectives that EU legislation confers on them.

### Citation from the operative part of the judgment:

'Article 101 TFEU, read in conjunction with Article 2 of Regulation No 26 of the Council of 4 April 1962 [...], Article 2 of Council Regulation (EC) No 1184/2006 of 24 July 2006 [...], Article 3(1) of Council Regulation (EC) No 1182/2007 [...], as well as the first paragraph of Article 122 and Articles 175 and 176 of Regulation No 1234/2007, as amended by Council Regulation (EC) No 491/2009 of 25 May 2009, must be interpreted as meaning that:

- practices that relate to the collective fixing of minimum sale prices, a concertation on quantities put on the market or exchanges of strategic information, such as those at issue in the main proceedings, **cannot escape the prohibition of the agreements, decisions and concerted practices laid down in Article 101(1) TFEU if they are agreed between a number of producer organisations or associations of producer organisations, or are agreed with entities not recognised by a Member State in order to achieve an objective defined by the EU legislature under the common organisation of the market concerned, such as professional organisations not having the status of producer organisation, association of producer organisation or interbranch organisation, within the meaning of EU legislation, and**
- practices that relate to a concertation on prices or quantities put on the market or exchanges of strategic information, such as those at issue in the main proceedings, **may escape the prohibition of agreements, decisions and concerted practices laid down in Article 101(1) TFEU if they are agreed between the members of the same producer organisation or the same association of producer organisations recognised by a Member State and are strictly necessary for the pursuit of one or more of the objectives assigned to the producer organisation or association of producer organisations concerned in compliance with EU legislation.'**

<sup>9</sup> <http://curia.europa.eu/juris/document/document.jsf?docid=196626>

## T-217/03 and T-245/03 FNCBV On the derogation in Article 2(1) of Regulation No 26 (predecessor to Article 209 CMO)

In this judgment the Court of Justice finds that for the first derogation of Article 2 (1) of Regulation 26 (now Article 209 CMO), which concerns agreements necessary for the attainment of the CAP objectives in Article 33 EC (now Article 39 TFEU), all objectives must be attained at the same time.

### Citation from the judgment:

Paragraph 199: 'Constituting as it does a derogation from the general rule in Article 81(1) EC, Article 2 of Regulation No 26 must be interpreted strictly (Case C-399/93 *Oude Luttikhuis and Others* [1995] ECR I-4515, paragraph 23, *Joined Cases T-70/92 and T-71/92 Florimex and VGB v Commission* [1997] ECR II-693, paragraph 152). Furthermore, it has consistently been held that the first sentence of Article 2(1) of Regulation No 26, which provides for the exception claimed, applies only if the agreement in question is conducive to attainment of all the objectives of Article 33 (*Oude Luttikhuis and Others*, paragraph 25; *Florimex and VGB v Commission*, paragraph 153; see also, to that effect, *Frubo v Commission*, paragraphs 25 to 27).'

## C-137/00 - Milk Marque and National Farmers' Union<sup>10</sup> On effective competition within agriculture and pursuit of different objectives

In this judgment the Court acknowledged that agriculture is not a zone free of competition. The Court stresses that in pursuing various aims (such as objectives of the agricultural policy and the aims of competition), the duty of the Union institutions is to reconcile different objectives and that no aim should be pursued in isolation to make the achievement of the other aims impossible.

### Citation from the judgment:

Paragraph 57 'It must first of all be observed that the maintenance of effective competition on the market for agricultural products is one of the objectives of the common agricultural policy and the common organisation of the relevant markets.'

Paragraph 91 'In that connection, it must be observed that, in pursuing the various aims laid down in Article 33 EC, the Community institutions have a permanent duty to reconcile the individual aims. Although that duty to reconcile any contradictions means that no single aim may be pursued in isolation in such a way as to make the achievement of the others impossible, the Community institutions may allow one of them temporary priority in order to satisfy the demands of the economic or other conditions in light of which their decisions are made.'

<sup>10</sup> <http://curia.europa.eu/juris/liste.jsf?num=C-137/00>

## Case C-280/93, Germany v. Council<sup>11</sup> On the relation between competition and agriculture

In this judgment, the Court of Justice refers to the Article 42 of the Treaty, which provides that the rules on competition apply to the agricultural sector only, if the legislator has decided that. The Court concludes that the objectives of agriculture have priority over competition objectives.

### Citation from the judgment:

*Paragraph 59: 'It should be noted that the institution of a system of undistorted competition is not the only objective mentioned in Article 3 of the Treaty, which also provides inter alia for the establishment of a common agricultural policy.'*

*Paragraph 60 'The authors of the Treaty were aware that the simultaneous pursuit of those two objectives might, at certain times and in certain circumstances, prove difficult and in the first paragraph of Article 42 of the Treaty they provided that:*

*"The provisions of the Chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the Council within the framework of Article 43(2) and (3) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 39".*

*Paragraph 61 Recognition is thus given to both the priority of the agricultural policy over the objectives of the Treaty in the field of competition and the power of the Council to decide to what extent the competition rules are to be applied in the agricultural sector.'*

## C-399/93 H. G. Oude Luttikhuis and Others<sup>12</sup> On agricultural cooperatives

In this judgment, the Court of Justice found that the form of an agricultural cooperative is not problematic as such. On the contrary, the Court acknowledged that the cooperative model has many advantages. However, the Court underlines that restrictions imposed on cooperative members that limit their freedom must be limited to what is necessary for the proper functioning of the cooperative, including the interest of the cooperative to have a stable membership.

### Citation from the judgment:

*Paragraph 11: 'In order to determine whether the withdrawal fee scheme is compatible with Article 85(1), the criteria to be examined are therefore first the object of the agreement, then its effects and finally whether it affects intraCommunity trade.*

*Paragraph 12: 'With regard first to the object of the agreements or the clauses in the statutes at issue in the main proceedings, organizing an undertaking in the specific legal form of a cooperative association does not in itself constitute anti-competitive conduct.*

*As the Advocate General noted in point 30 of his Opinion, that legal form is favoured both by national legislators and by the Community authorities because it encourages modernization and rationalization in the agricultural sector and improves efficiency.'*

*Paragraph 13: However, it does not follow that the provisions in the statutes governing relations between the association and its members, in particular those relating to the termination of the contractual link and those requiring the members to reserve their milk production for the association, automatically fall outside the prohibition in Article 85(1) of the Treaty.*

*Paragraph 14: In order to escape that prohibition, the restrictions imposed on members by the statutes of cooperative associations intended to secure their loyalty must be limited to what is necessary to ensure that the cooperative functions properly and in particular to ensure that it has a sufficiently wide commercial base and a certain stability in its membership (see Case C-250/92 Gottrup-Klim v Dansk Landbrugs Grovvaeselskab [1994] ECR I-5641, paragraph 35).*

<sup>11</sup> <http://curia.europa.eu/juris/liste.jsf?num=C-280/93>

<sup>12</sup> <http://curia.europa.eu/juris/liste.jsf?num=C-399/93>

# STUDIES AND REPORTS

## DG AGRI, EP pilot project: Analysis of the best ways for POs to be formed, carry out their activities and be supported

### Ongoing

**The study<sup>13</sup>** aims to provide an inventory of recognised POs and APOs in all agricultural sectors, as well as a survey of non-recognised POs. With examples from the fruit and vegetables as well as the pigmeat sectors, the study aims to establish the incentives that farmers have to organise in a PO and to identify the benefits that such POs have for the food chain.

## DG Competition: POs and their activities in the olive oil, beef and veal, and arable crops sector

### 2018

**The study<sup>14</sup>** delivers an analysis of POs from three sectors. It provides an inventory of POs and APOs, as well as a description of the activities of POs and APOs and an analysis of the benefits and disadvantages of these activities. It illustrates the findings through examples of a limited number of POs and APOs.

## JRC report: The impact of producer organisations on farm performance

### 2018

**This report<sup>15</sup>** estimates the farm level impact of membership in POs in Slovakia as well as the effectiveness of support provided to these POs under the EU's Rural Development Programme.

## JRC report: Fruit and vegetables producer organisations

### 2018

**The study<sup>16</sup>** takes a detailed look at POs' market behaviour. The focus is on both the type of contractors POs deal with, as well as the product assortment they offer. The empirical example is the fruit and vegetables sector in Poland.

## Report of the Agricultural Markets Task Force: Improving market outcomes

### 2016

**The report<sup>17</sup>** examines the position of farmers in the supply chain and makes recommendations as to how to improve that position. It is the result of the deliberations of the Agricultural Markets Task Force, which was set up in January 2016 on the initiative of Commissioner Hogan as a European Commission expert group.

## JRC report: Factors supporting the development of producer organisations and their impacts in the light of ongoing changes in food supply chains

### 2016

**This report<sup>18</sup>** surveys the recent literature on POs with a specific focus on factors affecting their establishment and their impact on farmers' market performance and welfare. The report also discusses POs' role in improving farmers' bargaining power and in allowing them to respond to various challenges that result from dynamic changes characterising commercial relations within the food supply chain.

## DG Competition report: Assessing efficiencies generated by agricultural Producer Organisations

### 2014

**The report<sup>19</sup>** gives an overview of the existing empirical literature from the EU and the United States that focuses on the role of POs in increasing productivity, increasing farmers' incomes, and ensuring reasonable consumer prices. The report also contains evidence from case studies on POs active in the beef and veal sector in Poland and in the arable crop sector in Romania.

## DG AGRI, EP pilot project: Support for Farmers' Cooperatives

### 2012

**The study<sup>20</sup>** gathered background information on policies that help farmers to organise themselves in cooperatives. The study comprises 27 country reports, eight sector reports (on cereals, sugar, pigmeat, sheep meat, fruit and vegetables, olive oil and table olives, dairy, and wine), six EU-wide synthesis reports, and 34 case studies.

<sup>13</sup> [https://ec.europa.eu/agriculture/calls-for-tender/280414-2017\\_en](https://ec.europa.eu/agriculture/calls-for-tender/280414-2017_en)

<sup>14</sup> <http://ec.europa.eu/competition/publications/reports/kd0218732enn.pdf>

<sup>15</sup> <http://doi.org/10.2760/463561>

<sup>16</sup> <http://doi.org/10.2760/758545>

<sup>17</sup> [https://ec.europa.eu/agriculture/agri-markets-task-force/meetings\\_en](https://ec.europa.eu/agriculture/agri-markets-task-force/meetings_en)

<sup>18</sup> <http://doi.org/10.2791/21346>

<sup>19</sup> <http://doi.org/10.2763/76733>

<sup>20</sup> [https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2012/support-farmers-coop/fulltext\\_en.pdf](https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2012/support-farmers-coop/fulltext_en.pdf)





## GLOSSARY

**Producer Organisations (POs):** POs can be defined as any type of entity that has been formed on the initiative of producers in a specific sector (horizontal cooperation) to pursue one or more of the specific aims listed in the CMO Regulation, whether or not it is formally recognised; POs are controlled by producers and can include cooperatives, different forms of associations, and private companies in which farmers are shareholders. POs vary in terms of number and size of their members and also regarding the degree of cooperation, e.g. for the types and numbers of products covered, the size of the geographical area in which the PO operates, and the kind and number of activities that the PO carries out for its members. Some POs are recognised under Articles 152 and 154 CMO Regulation. This regulation does not define what constitutes a PO, but it lists – for the purpose of the national recognition process – certain criteria that a PO needs to meet to be recognised, in particular that it is constituted and controlled by producers in a specific sector listed in Article 1 (2) CMO Regulation.

**Associations of producer organisations (APOs):** APOs are entities formed by POs. APOs can also be recognised by MS and they may carry out any of the activities or functions of POs according to Article 156 CMO Regulation.

**Interbranch organisations (IBOs):** Producers can also work together with other operators in the food supply chain (vertical cooperation). IBOs cover the cooperation between the production sector and at least one other level of the food supply chain, such as processors or retailers. MS can recognise IBOs based on Articles 157 and 158 CMO Regulation, which lists certain criteria that an IBO has to meet to be recognised, in particular that the IBO is constituted in a specific sector listed in Article 1 (2) CMO Regulation and pursues a specific aim listed in Article 157 (1) CMO Regulation (e.g. improving knowledge and transparency of the market, drawing up contract models, or carrying out research). IBOs do not engage in production, processing or trade, Article 158 1 (d) CMO Regulation.

**Farmer cooperatives:** Producers may organise themselves in the form of farmers' cooperatives, which are generally formed by their members, are controlled by them, and operate for their members' benefit, and which may engage in downstream activities, such as processing. The European Court of Justice recognised the benefits of cooperatives in the agriculture sector and confirmed that their creation on its own does not constitute an infringement of EU competition rules. A cooperative, a common legal form used in particular in Northern Europe, is not the only legal form of POs, though – other legal forms exist and their activities and extent of producer cooperation vary. The CMO Regulation does not contain any special rules for cooperatives, although certain provisions dealing with farmers' associations, such as Article 209 CMO Regulation also covers cooperatives. As a farmer cooperative is merely a special form of a PO, it can ask for recognition in the same manner as any other PO.

**Farmers' associations:** Some of the provisions in the CMO Regulation refer to farmers' associations, a term that is not defined but that covers a cooperation of farmers, irrespective of whether this cooperation is recognised as a PO. This term is associated often as referring to farmers' cooperatives, but legally it is not limited to any particular organisation form.





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