AECM – Avoiding the risk of double funding

When implementing Agri-environment-climate Measures (AECM) under the European Agricultural Fund for Rural Development (EAFRD), it is important to bear in mind that instruments and measures to deliver environmental objectives on agricultural land can be found in both CAP Pillars for the funding period 2014-2020. There are three main types of instrument/measure:

a) Cross-compliance requirements: requirements on farmers to comply with certain aspects of EU environmental (and other) legislation (Statutory Management Requirements – SMRs) and standards of Good Agricultural and Environmental Condition (GAEC) set by Member States in accordance with the EU level framework (compulsory and a precondition for receiving direct payments under CAP Pillar 1 and part of the baseline for certain EAFRD measures, therefore no financial support);

b) Payments per hectare for carrying out a suite of "Greening" measures (payments for agricultural practices beneficial for the climate and environment) on eligible land as part of direct payments under CAP Pillar 1 (compulsory for farmers – non-compliance incurs penalties; no EAFRD support is provided for compliance with greening);

c) Payments under EAFRD/CAP Pillar 2 (voluntary for farmers) to encourage environmentally beneficial farming practices, based on the income foregone and additional costs incurred in carrying out the management stipulated in the agreement, e.g. Agri-environment-climate payments (Measure 10), Organic farming (Measure 11) and payments for adapted farming practices on areas falling under the scope of the Natura 2000 Directive and Water Framework Directive (WFD) (Measure 12).

In keeping with the fundamental principle underpinning the rules for public expenditure in the EU that no costs for the same activity be funded twice from the EU budget[1], no double funding is permitted of the activities funded under the green payments in the 1st Pillar and the payments under the relevant EAFRD Measures listed above.

[1] Article 111 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002).

Subsequently, Member State administrations must pay attention that

- Rural Development Programmes (RDPs) include certification of the calculations of the aid to confirm that double funding with greening is avoided; and
- Systems are set up which allow proper administrative checks, to prove that double funding does not occur.

This factsheet presents and discusses different ways that have been found at the workshop to approach the control of the 'no double funding' rule in practice.

Box 1: Legal basis – No double funding

"An operation may receive support from one or more ESI Funds or from one or more programmes and from other Union instruments, provided that the expenditure item included in a request for payment for reimbursement by one of the ESI Funds does not receive support from another Fund or Union instrument, or support from the same Fund under another programme. »

(Reg. EU 1303/2013, Art. 65, 11*)*

« Expenditure financed under the EAFRD shall not be the subject of any other financing under the Union's budget. »

(Reg. EU 1306/2013, Art. 30)

"(…) when calculating the payments (…), Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Art.43 of DP Regulation"

(see Art. 28, 29 and 30 of Reg. 1305/2013)

"1. For the purposes of the support under Articles 28(6), 29(4) and 30(1) of Regulation (EU) No 1305/2013, the calculation of such payments shall take into account only the additional costs and/or income foregone linked to the commitments which go beyond the relevant obligatory practices under Article 43 of Regulation (EU) No 1307/2013.
2. When an agri-environment-climate commitment under Article 28 of Regulation (EU) No 1305/2013 for practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex IX to Regulation (EU) No 1307/2013, and for any further practices added to that Annex is notified, in accordance with the rules of Article 43(8) of Regulation (EU) No 1307/2013, as equivalent to one or more of the practices established under Article 43(2) of Regulation (EU) No 1307/2013, the payment for the agri-environment-climate commitment under Article 28(6) of Regulation (EU) No 1305/2013 shall be reduced by a lump sum corresponding to a part of the greening payment in the Member State or region for each greening practice as established in accordance with Article 43(12)(c) of Regulation (EU) No
1307/2013."

(Reg. EU 807/2014, Art. 9)

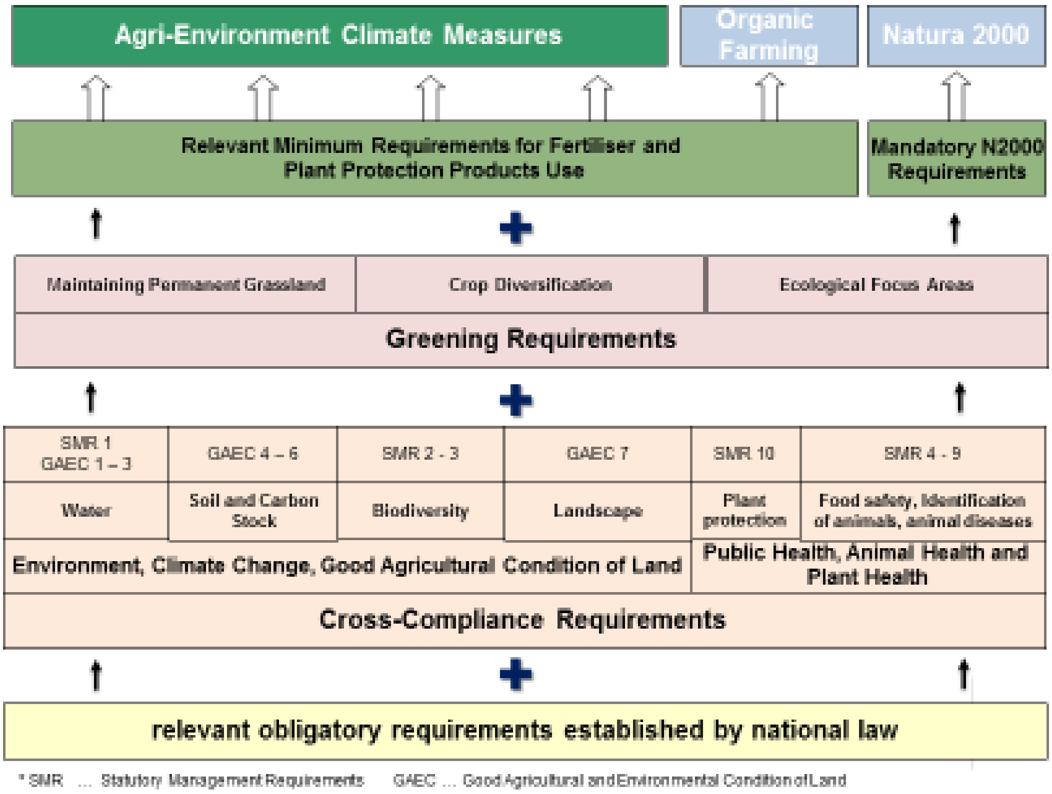
"1. For farmers deciding to observe the practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex IX to Regulation (EU) No 1307/2013 and any further equivalent practices added to that Annex for which a specific calculation is needed in order to avoid double funding, as equivalent practices pursuant to Article 43(3)(a) of that Regulation, Member States shall deduct from the amount of support per hectare calculated pursuant to Article 28(6) of Regulation (EU) No 1305/2013 an amount corresponding to one third of the average greening payment per hectare in the Member State or region concerned for each greening practice that the practice is equivalent with. (…)"

(Reg. EU 639/2014, Art. 39)

Two basic cases of how Member States have avoided double funding when programming their AECM

The EAFRD Regulation stipulates that, in order to avoid double funding, farming practices undertaken in order to receive the greening element of direct payments are taken into account when calculating AECM payment rates (see Box 1). This implies that in AECM commitments, only payments for the income foregone and additional costs of management practices going beyond the relevant greening practices are reimbursed (see Figure 1). An exceptional case derogating from these basic principles by applying a lump sum reduction is described below.

Figure 1: Calculation of AECM payments – Basic concept



The AECM premia calculation has to be set out in the RDP. From a conceptual point of view, there are two main ways of calculating AECM payments: the area-based approach and the whole farm approach (see below). Whichever approach is chosen, care must be taken to avoid double funding with those practices funded under the Pillar 1 greening measures. For both approaches, the calculations are generally made using regional averages for income foregone and additional costs.

a) Area-based approach

Payments are calculated on the basis of the income foregone and additional costs incurred by a farmer to comply with the AECM commitment concerned, e.g. cultivation of catch crops, erosion protection in a vineyard.

In addition, a proportion of the transaction costs for the farmer may be included in the payment rate.

Where a greening measure also applies on the same area, this calculation must be additional to the costs of compliance with the greening obligation per ha (Figure 1). In relation to the income foregone element of the calculation, only variable costs, and no fixed costs - such as investments - are considered (Figure 2).

b) Whole-farm approach

Calculating AECM per hectare payment rates following the whole farm approach makes sense if the farmer enters into a commitment concerning the overall management of the farm, e.g. environmentally friendly or integrated farm management (a similar approach could be applied to the calculation of payments for organic farming) (see Figures 3 and 4).

Here, the Gross Margin of a farm under the relevant AECM commitment is compared with that of a reference farm, which complies with Cross-Compliance requirements, and – if applicable – with the Greening requirements. In the same way as for the area-based approach, this method of calculating payments must also avoid any double funding with the Pillar 1 greening obligations.

Figure 2: Payment calculation following an area-based approach

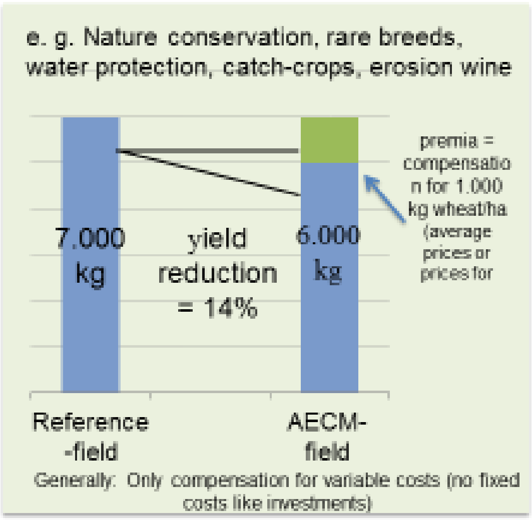
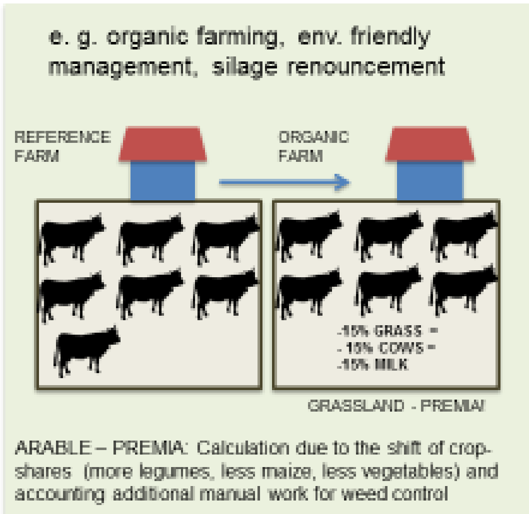
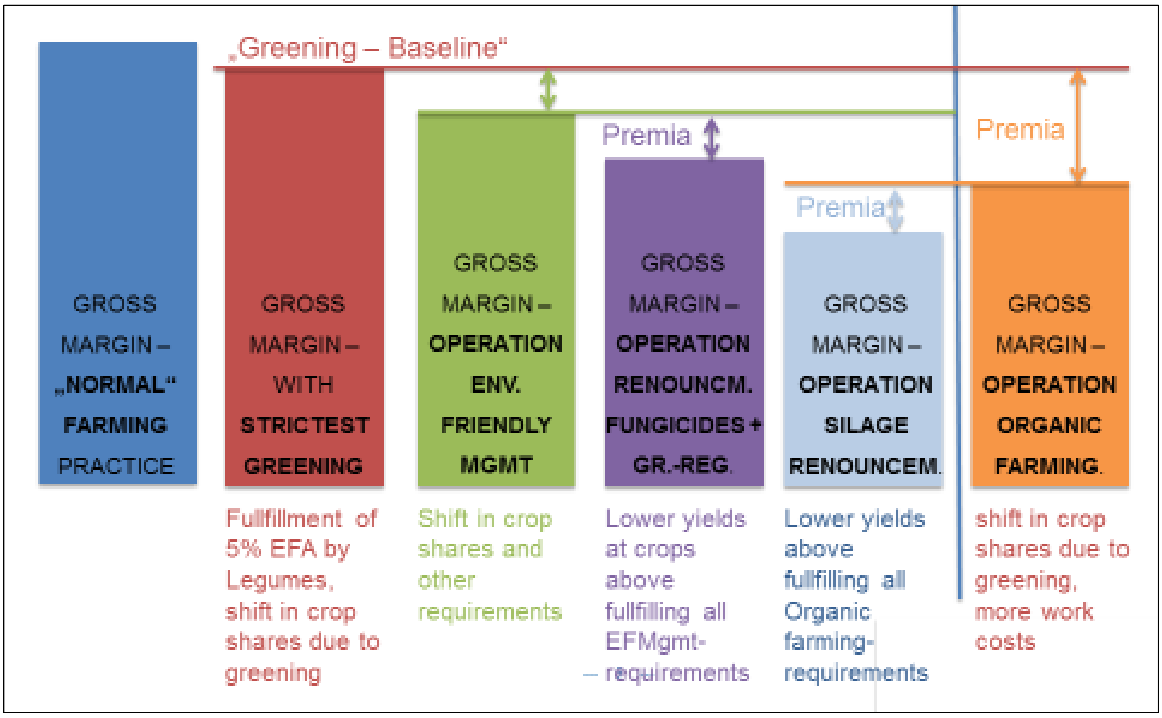


Figure 3: Payment calculation following a whole-farm approach



The administrative effort required to avoid double funding varies between the two approaches. For the whole-farm approach, no potential deductions from the AECM payment have to be considered, because the reference figures for payments for the AECM requirement to be “higher than greening” have already been taken into account in the calculations for the regions concerned. For the area-based approach, one additional technical check is required before payments are made to avoid double funding – a check on the coding of the parcels as AECM areas and Ecological Focus Areas (EFA). For example, according to the system applied in Austria, if a parcel is declared as falling under an AECM agreement and EFA, the AECM premium is not reduced, but not paid at all.

Figure 4: AECM Premia calculation and avoiding double funding following the whole-farm approach considering Greening and other operations



The concept of 'equivalent practices for greening' in the context of double funding

Equivalence as defined in Art. 43 of Regulation 1307/2013 refers to practices that are regarded as equivalent to greening, as they provide similar or greater benefit for the climate and/ or the environment compared to one of the ***three greening measures***, which are: (a) crop diversification; (b) maintaining existing permanent grassland; and (c) having ecological focus area on the agricultural area.

There are a number of practices regarded as equivalent (see Annex IX, Reg. 1307/2013).

With regard to three of these practices - catch crops, winter soil cover and production without fertilisers and / or pesticide use - when one or more of those practices form part of an AECM commitment and are applied for equivalence purposes, payments must be reduced by a lump sum to avoid double funding[2]. If they are applied only in the context of an AECM intervention, payment calculation can be done as described in Figure 2.

[2] The usual payment rate for that practice, calculated based on the normal rules of income foregone and additional costs must be reduced by one third of the average greening payment per hectare in the Member State or region concerned or by one third of the greening payment per hectare of the individual farmer (if the Member State has elected to make greening payments which reflect historic payment entitlements). A one third reduction must be made for each greening practice for which the equivalent practice in question is used to comply with the greening obligations on his/her land.

For the other equivalent practices permitted, where these are included within the AECM, avoiding double funding means that only the additional costs and income foregone linked to practices going beyond the requirements of the greening measure should be taken into account (as in Figure 1 above).

Examples for this can be found in the Polish RDP, under which different AECM-Packages are offered amongst which is one package where the AECM commitments have a nature similar to the greening practices but are <u>not</u> used for the purpose of equivalence, and one package, which <u>integrates equivalent</u> practices for compliance with the greening requirements:

The first package, "**Protection of soil and water**" (winter soil cover/catch crops) to prevent soil erosion, is of a similar nature to the greening practices of Ecological Focus Areas (EFA).Support is granted on the designated areas particularly endangered by water erosion, areas with low content of humus and in the nitrate vulnerable zones. To avoid double funding, it has to:

a) be checked that the areas under commitment are not also declared as EFA, and

b) be considered that compliance with the GAEC standard 4 (Minimum soil cover) applies, as payments have to go beyond the obligatory standards. In this case, for GAEC compliance in the above mentioned vulnerable areas, 30% of the utilised agricultural area (UAA) has to maintain a minimum of soil cover. Thus, only 70% of the UAA of a farm is eligible for this AECM Package.

The calculation of the AECM payment rate also takes into account: the decrease in standard gross margin from successive crops; costs for seeds and additional cultivation (e.g. sowing treatments); benefits from savings due to a reduction in nitrogen doses for successive crops; and the value of the catch crop ploughed (as an organic fertiliser improving the physical characteristics of the soil).

Table 1: Comparison of Greening requirements and the requirements of an AECM Package offered under the Polish RDP

Requirements under the Greening measure "Crop diversification"		**Requirements under the AECM Package "Sustainable farming" – offered as an equivalent practice to comply with the crop diversification greening measure**
the **arable land** of the farmer covers **between 10** and **30 hectares**	- at least **2** different crops on that arable land, - the main crop shall not cover more than **75 %** of that arable land.	- minimum **4 crops** on arable land during the year - the share of the main crop and total share of cereals should not exceed **65%** - the share of each crop sown should not be less than **10%**
the **arable land** of the farmer covers more **than 30 hectares**	- at least **3** different crops on that arable land., - the main crop shall not cover more than **75 %** of that arable land - the two main crops together shall not cover more than **95 %** of that arable land	

The **AECM package "Sustainable farming"** offered under the Polish RDP, where the AECM includes an equivalent practice for crop diversification, as set out in Annex IX of Regulation (EU) 1307/2013 (see Table 1). Premia calculation for that AECM package relates to those income losses and additional costs which corresponds to the activities under the commitments which go beyond the compulsory greening practices and includes: costs of introduction of the fourth crop, catch crop cultivation and the costs of double soil analysis.

The need for sophisticated administrative check systems

Managing Authorities have to establish a control system which allows for administrative checks to ensure that double funding has been avoided (see Box 2). Such a system has to consider both CAP Pillars, including the status of each parcel with regard to its contribution to the fulfilment of Greening requirements or AECM agreements (or other national/ regional support schemes).

Box 2: Legal basis for administrative checks

"The administrative checks referred to in Article 74 of Regulation (EU) No 1306/2013, including cross-checks, shall permit the detection of non-compliances, in particular the automated detection using computerised means. The checks shall cover all elements that are possible and appropriate to control by means of administrative checks. They shall ensure that:

(a) the eligibility criteria, commitments and other obligations for the aid scheme or support measure are fulfilled;

(b) there is no double financing through other Union schemes; (…)"

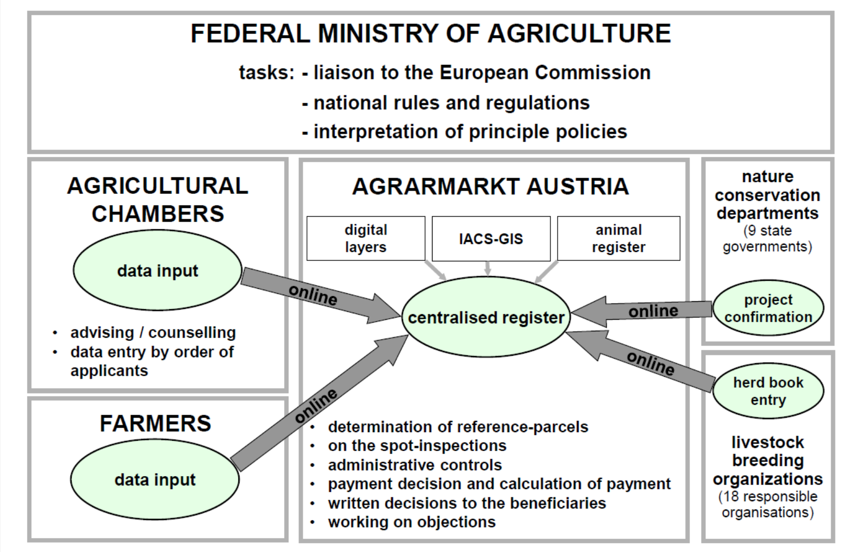
Art. 28, Reg. (EU 809/2014)

In addition, support to whole-farm management schemes must be identifiable as such, as must areas which fall under the scope of special legal requirements relevant for land management, such as those operating in protected areas. This is because payment rates for the AECM have to take account of the rules applying in these areas as part of the baseline. Payment rates may be different within protected areas to those for the same management practices outside these areas. One example of how an administration system can be conceptualised to fulfil those demands is described in Box 3.

Box 3: The Austrian approach to administrative checks and managing area-based measures

In Austria, a system based on data of the Geographical Information System (GIS) has been established, which brings together area-related data from several actors (see Figure 5). It is linked to the Land Parcel Information System (LPIS) and the Integrated Administration and Control System (IACS).

Figure 5: The Integrated Administrative and Control System (IACS) in Austria



Data is fed online into the system by farmers, the agricultural chambers and agencies, and is then converted into different GIS-layers which are synchronised with one another. Not only is data directly related to the CAP registered, such as EFAs, AECM commitments (including the commitment period) and animals, but also protected areas are mapped.

On this basis, parcels can be categorised and payments are automatically calculated, with the necessary deductions made to avoid double funding. As an additional precaution, Austria decided to declare farmland in National Parks - where stricter legal requirements have to be followed by farmers anyway - as not eligible for AECM commitments.

Despite the comprehensive approach, the administration still has to deal with some challenges related to avoiding double funding:

- It is not possible to reduce a premium; a premium can only be paid fully or not at all.
- There are a large number of possible premium overlaps, e.g. aids/regulations from EU, national, provinces and municipalities.
- Some data sets have to be fed manually into the system, as they are not yet available in graphic format; and/ or borders are not registered exactly.
- The problem of possible double funding can de facto not be approached by on-the-spot checks, as frequently there is no sign-posting of e.g. EAFRD support or specific protection areas.
- It is not an ideal solution that the applicant states a code in the claim for classifying parcels as e.g. protected area, which serves as a warning for the paying agency not to pay for AECM commitments automatically, because land owners are not always aware of the status of the parcels. For that reason, it is planned to create an additional GIS layer, a kind of "blocking layer".

References

For the draft of this Factsheet, figures and the table have been taken from the PowerPoint contributions provided at an AECM workshop in December 2016; the presentations are published on the ENRD website.

For Figures 1-4, see http://enrd.ec.europa.eu/sites/enrd/files/ws12_doublefunding_at_ma_neudorfer.pdf

For Figure 5 see http://enrd.ec.europa.eu/sites/enrd/files/w12_doublefunding_at_pa_kneissl.pdf

For Table 1, see http://enrd.ec.europa.eu/sites/enrd/files/w12_doublefunding_pl_jobda.pdf.

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