Exchange of experience of implementation and control on agricultural activity and Permanent Grassland ELP

Expert group meeting
9 December 2015

Carlo PAGLIACCI
DG AGRI - Unit D.1
This presentation is established on the understanding that in the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.
Activation of payment entitlements (PE)

Article 31(1)

- Support is granted to Farmers (active farmer)
- By means of declaration
- Upon activation of a PE
- per eligible hectare
Definition of eligible hectare

Article 32

'eligible hectare' means:

a) any agricultural area of the holding, including areas not in good agricultural condition on 30 June 2003 in SAPS, that is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities (can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activities).

MS may define a negative list of areas predominantly used for non-agricultural activities.

b) any area which gave a right to payments in 2008 under SPS or SAPS, and which:
   (i) no longer complies with the definition of 'eligible hectare' as a result of the implementation "Natura 2000" requirements; or
   (ii) is afforested pursuant to RD programmes or under a national scheme; or
   (iii) is set aside pursuant RD programmes.
AGRICULTURAL ACTIVITY
Agricultural Activity
Article 4(1)(c) of Regulation 1307/2013

•(i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes
•(ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission
•(iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation
Minimum requirements for maintenance
Article 4 of Regulation 639/2014

- Framework for criteria on maintaining the agricultural area in a state suitable for grazing or cultivation

1. For the purposes of the point (ii) of Article 4(1)(c) of Regulation (EU) No 1307/2013, either or both of the following:

(a) Member States require at least one annual activity to be carried out by a farmer. Where justified for environmental reasons, Member States may decide to recognise also activities that are carried out only every second year;
(b) Member States set out the characteristics to be met by an agricultural

2. Member States may distinguish between different types of agricultural areas.
### Approach used according to Article 4(1) of Reg. 639/2014

**a) activity**

<table>
<thead>
<tr>
<th>MS applying the same criteria to all types of areas</th>
<th>Approach used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>a</td>
</tr>
<tr>
<td>BE Flanders</td>
<td>a</td>
</tr>
<tr>
<td>Cyprus</td>
<td>a</td>
</tr>
<tr>
<td>Finland</td>
<td>b</td>
</tr>
<tr>
<td>Germany</td>
<td>a</td>
</tr>
<tr>
<td>Ireland</td>
<td>b</td>
</tr>
<tr>
<td>Malta</td>
<td>a</td>
</tr>
<tr>
<td>Netherlands</td>
<td>a</td>
</tr>
<tr>
<td>Poland</td>
<td>a</td>
</tr>
<tr>
<td>Romania</td>
<td>a + b</td>
</tr>
<tr>
<td>Slovenia</td>
<td>a</td>
</tr>
<tr>
<td>UK England</td>
<td>b</td>
</tr>
<tr>
<td>UK NI</td>
<td>b</td>
</tr>
<tr>
<td>UK Wales</td>
<td>b</td>
</tr>
</tbody>
</table>

**b) characteristics**

<table>
<thead>
<tr>
<th>MS applying different criteria according to types of agricultural areas</th>
<th>Approach used</th>
</tr>
</thead>
<tbody>
<tr>
<td>BE Wallonia</td>
<td>a + b</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>a + b</td>
</tr>
<tr>
<td>Croatia</td>
<td>a + b</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>a</td>
</tr>
<tr>
<td>Denmark</td>
<td>a</td>
</tr>
<tr>
<td>Estonia</td>
<td>a + b</td>
</tr>
<tr>
<td>France</td>
<td>b</td>
</tr>
<tr>
<td>Greece</td>
<td>a + b</td>
</tr>
<tr>
<td>Hungary</td>
<td>a + b</td>
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<tr>
<td>Italy</td>
<td>b</td>
</tr>
<tr>
<td>Latvia</td>
<td>a + b</td>
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<tr>
<td>Lithuania</td>
<td>a + b</td>
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<tr>
<td>Luxembourg</td>
<td>a</td>
</tr>
<tr>
<td>Portugal</td>
<td>b</td>
</tr>
<tr>
<td>Slovakia</td>
<td>a</td>
</tr>
<tr>
<td>Spain</td>
<td>a + b</td>
</tr>
<tr>
<td>Sweden</td>
<td>a + b</td>
</tr>
<tr>
<td>UK Scotland</td>
<td>a + b</td>
</tr>
</tbody>
</table>
maintenance criteria notified by MS

Arable land
available for crop production but lying fallow

- Mowing (by established date)
- Avoid encroachment of any woody plant (by cutting or using herbicides)
- Avoid the spread of unwanted vegetation
- Avoid shrubs on the majority of the area
- Tilling (ploughing, diskling)
- Maximum height of spontaneous vegetation
- Maintenance of drainage
Permanent crops

- Mowing grass between the rows
- Cutting ligneous vegetation other than main crop
- Pruning
- Ensuring a minimum rate of live trees
- Absence of shrubs
- Tillage of the ground
- Maintenance of drainage
- Balanced vegetation growth of the crop
maintenance criteria notified by MS

Permanent grassland permanent pasture

- Mowing (by established date) (possibly destructing or removing the grass)
- Maximum height of spontaneous vegetation (e.g. 50-70 cm)
- Avoid forestation
- Avoid the spread of unwanted vegetation (using herbicides)
- Avoid (dense) shrubs on the majority of the area
- Tilling (ploughing, disk ing)
- Sowing, renewing the grass, maintenance of drainage
- The area is accessible to animals

Minimum stocking density (not acceptable)
Areas naturally kept suitable ...
Article 4(1)(c)(iii) of Regulation 1307/2013

•(i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes

•(ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission (e.g. mowing; control of weeds; avoid waterlogging; renewing grass cover)

•(iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;
Areas naturally kept in a state suitable for grazing or cultivation
Article 5 R 639/2014

At least one annual activity is requested, (or every second year for environmental reasons).

Grazing may be one of the annual activities provided that a choice between such grazing and non-producing activities is left to the concerned farmers; notwithstanding the minimum livestock density, the actual activity should be ensured for each concerned hectare.

The concerned areas have to be duly identified in the LPIS pursuant to Article 5(2)(d) of Regulation (EU) No 640/2014.
maintenance criteria notified by MS

areas naturally kept

- Grazing (minimum stocking density) (only acceptable if part of a menu of requirements with genuine non-production related alternative)
- Mowing (by established date) (destruction or removing the grass)
- Avoid forestation
- Avoid the spread of unwanted vegetation
- Avoid (dense) shrubs on the majority of the area
- Renewing the grass
Permanent Grassland
ELP
Permanent Grassland (PG-ELP)
Article 4(1)(h)

"permanent grassland and permanent pasture" (together referred to as "permanent grassland") means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more;

it may include other species such as shrubs and/or trees which can be grazed provided that the grasses and other herbaceous forage remain predominant as well as,

where Member States so decide, land which can be grazed and which forms part of established local practices (ELP) where grasses and other herbaceous forage are traditionally not predominant in grazing areas;
Permanent Grassland (PG-ELP)  
Articles 7 and 8 of Reg. 639/2014

For the purposes of Article 4(1)(h) of Regulation (EU) No 1307/2013, established local practices shall be any or a combination of the following:

(a) practices for areas for livestock grazing which are traditional in character and are commonly applied on the areas concerned;

MS may apply a reduction coefficient according to Article 32(5) to convert the concerned hectares into "eligible hectares" (only PT)
Member States may distinguish between different categories of areas in order to apply different reduction coefficients to such categories.

<table>
<thead>
<tr>
<th>Member States having extended definition of PG in case of ELP</th>
<th>a) (traditional) and/or b) (conservation habitats) of Art. 7 of R 639/2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>DE</td>
<td>EL</td>
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<tr>
<td>a+b</td>
<td>a</td>
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Thank you for your attention!

Carlo PAGLIACCI
AGRI D.1