

Measure fiche

**NATURA 2000 AND WATER FRAMEWORK DIRECTIVE PAYMENTS**

Measure 12

Article 30 of Regulation (EU) No 1305/2013

*This fiche is based on the text of Regulation (EU) No 1305/2013 [EAFRD] and, when relevant, on Regulation (EU) No 1303/2013 [CPR]. Since the Delegated and Implementing Acts supplementing these regulations have not yet been adopted, some modifications to this guidance fiche might be needed after their adoption.*

*This guidance does not represent a binding legal interpretation of Regulation (EU) No 1305/2013. It is therefore essentially non-binding in nature and complements the related legal acts,...*

**1. RATIONALE OF THE MEASURE**

The support under this measure is to be granted to beneficiaries of this measure who suffer from particular disadvantages due to specific mandatory requirements in the areas concerned resulting from the implementation of Birds and Habitats Directives and Water Framework Directive (WFD) when compared to the situation of farmers and foresters in other areas not concerned by these disadvantages.

This distinguishes this measure from the support under Article 28 (agri-environment-climate payments) where beneficiaries are remunerated for carrying out voluntary commitments.

**2. THE COMPENSATION UNDER THIS MEASURE IS TO HELP ADDRESS THE SPECIFIC DISADVANTAGES AND TO CONTRIBUTE TO THE EFFECTIVE MANAGEMENT OF NATURA 2000 SITES AND RIVER BASIN AREAS AND TO ENSURE THE PROTECTION OF THOSE SITES. WHAT'S NEW IN COMPARISON TO THE PERIOD 2007 – 2013**

Several changes to the measures' provisions are proposed to improve the clarity of rules and address the need for certain flexibility in terms of eligible area.

With regard to the support for Natura 2000 areas, both agricultural and forestry areas fall under this measure (contrary to the period 2007-2013 where there were two separate measures: one for agricultural areas and another one for forestry areas).

The list of eligible beneficiaries is extended to other land managers when it is justified.

The clarity concerning the baseline is improved by explicitly indicating that the support for Natura 2000 can only be granted in relation to disadvantages and requirements which go beyond good agricultural and environmental conditions.

In addition to the areas designated as Natura 2000, the area eligibility is extended to other delimited nature protection areas with environmental restrictions applicable to farming or forest. These additional areas have to be linked to the Habitat Directive ("stepping stones" of art.10) and cannot exceed 5% of the designated Natura 2000 areas covered by the territorial scope of the rural development programme.

As a result, the eligibility of these additional areas should improve the ecological coherence of the Natura 2000 network through the management of the linear and continuous landscape features having a role of stepping stones essential for the migration and exchange of wild species.

### **3. CONTRIBUTION TO FOCUS AREAS AND CROSS-CUTTING OBJECTIVES**

Support for Natura 2000 and WFD clearly is expected to deliver important environmental benefits as this is its main objectives. The farming practices allowed or promoted under the restrictions defined by the respective management rules contribute to protecting and enhancing the state of biodiversity and water ecosystems and indirectly they can also contribute to better soil protection, reduced flooding, and more sustainable use of water resources and possibly also to carbon sequestration (ban on conversion of grassland into arable land, restoration of uplands/peat through recreating wetlands). It is thus clear that this support will establish a link to the rural development cross-cutting objective of the environment.

The Natura 2000 and Water Framework Directive payments measure can be expected to contribute to several Union priorities for RD but it is most relevant for the following priorities:

- Priority 4: "Restoring, preserving and enhancing ecosystems related to agriculture and forestry" with a focus on the following areas:
  - a) restoring, preserving and enhancing biodiversity, including in Natura 2000 areas and in areas facing natural or other specific constraints, and high nature value farming, as well as the state of European landscapes (focus area 4a);
  - b) improving water management, including fertiliser and pesticide management (4b);
  - c) preventing soil erosion and improving soil management (4c).
  
- Priority 5: "Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors" with a focus on the following area :
  - a) fostering carbon conservation and sequestration in agriculture and forestry (focus area 5e).

## **4. SCOPE, TYPE AND LEVEL OF SUPPORT**

### **4.1. Types of operation**

Support within this measure can be provided for operations falling under the following sub-measures:

- Natura 2000 payments: operations related to disadvantages and restrictions imposed in the designated Natura 2000 areas and defined in management plans or other equivalent instruments; such restrictions must have a mandatory character i.e. must be fulfilled by all land managers in the areas concerned and are linked to the provisions on maintenance or restoration of the habitats and species and on avoiding their deterioration and disturbance.
- WFD payments: operations related to disadvantages and mandatory specific restrictions and requirements in the areas concerned, introduced by WFD and being in accordance with the programmes of measures of the river basin management plans and which impose major changes in land use and/or major restrictions in farming practices such as: increasing the surface of permanent grassland, converting arable land into grassland, afforestation, restoration of wetlands, creation of water ponds etc.

The support for Water Framework Directive is limited to disadvantages and restrictions requiring farmers to make major changes in land use types and/or major restrictions in to their farming practices resulting in a significant loss of income. This is because the areas concerned by the implementation of this Directive cover the entire territory of the Member States. Supporting all such areas even where restrictions are minimal would consume resources at the level disproportionate to the benefits it would bring.

The case of Natura 2000 is different as it concerns about 18% of the EU territory.

### **4.2. Beneficiaries**

With respect to the support for Natura 2000 areas, the following categories of beneficiaries are eligible:

- farmers
- private forest holders
- associations of private forest holders
- other land managers (in duly justified cases).

With regard to the support for WFD related areas, the following categories of beneficiaries are eligible:

- farmers.

### **4.3. Eligibility**

#### *4.3.1. Eligible expenditure*

Costs of activities are calculated on the basis of income foregone and additional costs linked to the requirements and disadvantages defined for Natura 2000 sites or for WFD in river basin management plans. Fixed costs are not eligible. As this is not an investment measure, the non-productive investments necessary to achieve the objectives of the measure can be supported under Investment measure (Art.17).

#### *4.3.2. Other eligibility issues*

##### *4.3.2.1. Baseline*

Beneficiaries of the support for Natura 2000 and WFD must respect the baseline conditions and can only be compensated for requirements going beyond these conditions.

In reference to Natura 2000 payments, the baseline conditions are made of the good agricultural and environmental conditions as provided for in Council Regulation (EU) No (HR) and the relevant criteria and minimum activities as established pursuant to the second and third indents of point (c) of Article 4(1) of Regulation (EU) No 1307/2013.

With regard to WFD payments, the baseline is made of the following elements: statutory management requirements and the good agricultural and environmental conditions as provided for in Council Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to the second and third indents of point (c) of Article 4(1) of Regulation (EU) No 1307/2013.

In addition, the payments for WFD shall only be provided for specific mandatory requirements that were introduced by Directive 2000/60/EC and are in accordance with the programmes of measures of the river basin management plans and which impose major changes to land use type and/or major restrictions in farming practice resulting in a significant loss of income.

##### *4.3.2.2. Eligible area*

As far as Natura 2000 payments are concerned, they can be granted to Natura 2000 agricultural and forest areas designated under Directives 92/43/EEC and 2009/147/EC as well as other nature protection areas with environmental restrictions (so called *stepping stones*).

With regard to WFD payments, only agricultural areas (forestry area is illegible) and only those concerned by the restrictions of the river basin management plans under Directive 2000/60/EC are eligible. That means that agricultural area in river basins for which a river basin management plan is not adopted are not eligible for the support under Art.30.

#### *4.3.3. Application of the rule on non-double funding*

Art.30(1) of the RD Regulation stipulates that "When calculating support under this measure, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013".

This provision requires avoiding double funding between the commitments supported under Art.30 and the greening practices rewarded by the 1<sup>st</sup> pillar's green payments.

To avoid double funding, the calculation of income foregone and additional costs resulting from the commitments made under Art.30 shall take into account only those costs and income which are linked to the commitments going beyond the relevant greening practices.

#### **4.4. Targeting and principles with regard to the setting of selection criteria**

It is assumed that all beneficiaries of this measure provide the environmental benefits. The latter are the same or very similar among those beneficiaries who are subject to the same mandatory restrictions; therefore there is no need to undertake any selection of beneficiaries. And for this reason Regulation (EU) No 1305/2013 does not require establishing selection criteria for Natura 2000 and WFD payments measure.

However, the implementation of the measure may bring particularly important environmental benefits in certain areas and Member States may wish to give a preferential access to the support under this measure to those areas.

For further information on this aspect, please refer to point 5.6 of the guidelines on eligibility conditions and selection criteria<sup>1</sup>.

#### **4.5. Links to other legislation**

The link to other legislation is very important in the case of the Natura 2000 and WFD payments measure as the legal requirements stemming from the relevant legislation constitute the basis for granting support under this measure.

The following legislation is of relevance:

- With regard to Natura 2000 payments sub-measure:
  - Horizontal Regulation, Art.94 and Annex II;
  - Direct payments Regulation, Art.4(1)(c) (minimum activity, maintenance of agricultural area);
  - Directive 92/43/EEC (in particular Art.6(1) and 6(2))
  - and Directive 2009/147/EC (in particular Art.4(1)).
- With regard to WFD payments sub-measure:

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<sup>1</sup> Draft guidelines on eligibility conditions and selection criteria for the programming period 2014 – 2020.

- Horizontal Regulation, Chapter I of Title VI; Direct Payments Regulation, Chapter II of Title III and Art.4(1)(c) (minimum activity, maintenance of agricultural area);
- Directive 2000/60/EC (in particular Art. 4, 5, 11, 13);
- Directive 2006/118/EC on protection of groundwater
- Directive 2008/105/EC on priority substances in the field of water policy
- other water protection legislation existing at the time Directive 2000/60/EC was adopted.

#### **4.6. Aid intensity / amount of support**

Support under this measure shall be limited to the maximum support rates laid down in Annex I to the RD Regulation.

- For Natura 2000 payments sub-measure:
  - 500€/per ha per year maximum in the first 5 years
  - 200€/per ha per year maximum.
- For WFD payments sub-measure:
  - 500€/per ha per year maximum in the first 5 years
  - 200€/per ha per year maximum
  - 50€/per ha per year minimum.

For both Natura 2000 and WFD payments sub-measures, the amounts indicated in Annex I to the RD Regulation may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes.

The programme shall include, for each sub-measure, a description of the methodology and the agronomic assumptions used as reference point for the calculations justifying additional cost and income foregone resulting from the disadvantages in the area concerned related to the implementation of Directives 92/43/EEC, 2009/147/EC and 2000/60/EC.

#### **4.7. Financial aspects**

The contribution rates applicable are those lay down in Art. 59 of Regulation 1305/2013.

This measure is among the measures which contribute to the compliance with the requirement stipulated in Article 59(6) of Regulation 1305/2013 and which requires that at least 30% of the total EAFRD contribution to the rural development programme shall

be reserved for measures contributing to climate change mitigation and adaptation as well as environmental issues.

Furthermore, this measure can also benefit from a higher co-financing rate (75%) as it contributes to the objectives of environment and climate change mitigation and adaptation (Article 59(4)(b) of the RD Regulation). In case of the less developed regions, in the outermost regions and in the smaller Aegean islands this co-financing rate can be even higher (85% of the eligible public expenditure) as stipulated in Article 59(3)(a).

## 5. FOCUS ON SPECIFIC ISSUES

Apart from identifying and defining elements of the baseline, other elements must be defined:

- Designation of the areas concerned by the implementation of Directives 92/43/EEC, 2009/147/EC and 2000/60/EC
- Identification of the restrictions / disadvantages / obligations resulting from the corresponding management provisions leading to income foregone and additional costs based on which payments can be granted
- For Natura 2000 payments sub-measure:
  - Designation of other nature protection areas with environmental restrictions which may fall within the category of so called *stepping stones*
  - Appropriate evidence that the foreseen compensation does not cover additional cost and income foregone resulting from the standards for the good agricultural and environmental condition and the relevant criteria and minimum activities as established pursuant to the second and third indents of point (c) of Article 4(1) of Regulation (EU) No 1307/2013.
- For WFD payments sub-measure:
  - Identification of the specific requirements introduced in accordance with the programmes of measures of the river basin management plans which require major changes in land use and/or major restrictions in farming practices and which are basis for calculating payments
  - Appropriate evidence that the foreseen compensation does not cover additional cost and income foregone resulting from disadvantages related to other Union legislation for the protection of water and to the baseline elements (the statutory management requirements and the good agricultural and environmental condition provided for in Chapter I of Title VI of Regulation (EU) No HR/2012 and the relevant criteria and minimum activities as established pursuant to the second and third indents of point (c) of Article 4(1) of Regulation (EU) No 1307/2013.

## **6. INDICATORS**

Reference to be made to the Commission Working Paper "*Elements of strategic programming for the period 2014-2020*", Annex IV.

## **7. VERIFIABILITY AND CONTROLLABILITY**

*Reference to be made to the "Guidelines on verifiability and prevention of errors"*

In order to limit the possible errors, the following elements should be taken into account:

- Clear identification of obligations (restrictions / disadvantages) for which payments will be granted
- Ensuring that the obligations go clearly beyond the respective baseline elements.

## **8. TRANSITIONAL ARRANGEMENTS**

If budget for the period 2007-2013 is still available, Member States can support this measure in 2014 and 2015 under the rules of Regulation 1698/2005. However, when the measure is supported in 2014 and 2015 under the old rules but with the financial resources of the period 2014-2020, the co-financing rates of the corresponding new measure shall apply (Article 3(2)(b) of Regulation 1310/2013).

According to the rules of Article 1 of Regulation 1310/2013, Member States may continue to undertake new legal commitments in 2014 on the basis of Regulation (EC) No 1698/2005, even after the financial resources of the period 2007-2013 are used up, until the adoption of the respective rural development programme for the 2014-2020 programming period.

## **9. BEST PRACTICES**

The maintenance of species rich grassland and maintaining extensive grazing practices as the two most frequently supported forms of land management under this measure. In addition to farmland biodiversity, the other public goods that are also provided through such forms of management, include agricultural landscapes and to a lesser extent, soil functionality, water quality and water availability and rural vitality.

Where possible, Member States should consider where on the ground common actions could deliver for both Natura 2000 and WFD objectives e.g. through the creation of continuous buffer strips that provide protection of waters and at the same time a corridor for wildlife. By searching to deliver multiple benefits and to apply a synergy approach, the burden on farmers could be reduced and the environmental gains increased.

Beneficiaries of the support under Natura 2000 and Water Framework Directive payments measure are also eligible for the agri-environment-climate payments as long as

they commit to carry out commitments going beyond the agri-environment-climate measure's baseline. These commitments are voluntary contrary to mandatory requirements which are supported under Art.30. This possibility of combining measures under Art.28 and 30 can be used in order to further improve management and protection of these areas.

While Art.28 provides space for voluntary measures going beyond certain reference level, in certain instances it may be desirable for Member States to make the measures mandatory to ensure that the measures are taken up in the location where they are most needed to deliver the expected environmental outcome. In this case, Art.30 should be applied.

With regard to Natura 2000 payments, if the management plans or equivalent instruments for Natura 2000 sites include compulsory practices for farmers, such practices become part of the baseline for relevant agri-environment-climate payments. This means that these practices cannot be supported under agri-environment-climate measure but are only eligible for support under Art.30.