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GOVERNMENT OF MALTA
MINISTRY FOR AGRICULTURE, FISHERIES AND ANIMAL RIGHTS
AGRICULTURE AND RURAL PAYMENTS AGENCY

GOVERNMENT OF MALTA
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ANC GUIDELINES 2023-2027

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BACKGROUND INFORMATION

INTRODUCTION

The purpose of these guidelines is to define the implementation of the Areas of Natural Constrains intervention (ANC) and shall include instructions concerning the commitments and applicable provisions and penalties applicable under ANC.

These Guidelines shall be continuously reviewed and updated in order to fully comply with EU Regulations and relevant guidance documents issued by the Commission.

ARPA may not be held responsible for any damages related to changes that shall be carried out to the CAP SP. All information and rates in this document are still provisional and subject to changes.

LEGAL BASIS

- Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013.
- Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013
- The amendment to Article 83 of Regulation (EU) 2021/2116 (2), Article 69(1) of Regulation (EU) 2021/2116.
- All other implementing/delegated acts issued through empowerments of the above mention legislative acts.
- CAP SP for Malta

PART I - Responsibilities of Each Authority

SUBJECTS INVOLVED IN THE PAYMENT OF AID

The management of the payments in the area-related measures foresees the involvement of the following institutionalised subjects:

- **The Ministry for Agriculture, Fisheries, and Animal Rights**: As designated in the CAP SP MAFA shall be responsible for the implementation regarding EAFRD Interventions.
- **The Agriculture and Rural Payments Agency (ARPA) of MAFA:** shall be responsible for the management and implementation of the EAFRD Interventions. Moreover, ARPA shall be the responsible body for the management of all data integrated in the IACS (Integrated Administration and Control System) in relation to the aid (collection and maintenance of land-related data) and the management of multi-annual commitments under eco-schemes.

The units below within the ARPA will be responsible for the following tasks:

- **Unit A1 The Front Office:** shall receive and process all claims, perform the initial administrative checks and interact directly with the clients making sure submitted applications and relevant supporting documentation are correct and complete.
- **Unit C1 Authorisation IACS Schemes:** shall be responsible for the co-ordination of the schemes and authorisation of payments.
- **Unit C3.1 The Control Unit (IACS & non-IACS Controls):** shall be responsible for implementing the control system, carry out on-the-spot checks/ remote sensing/ monitoring (as applicable) and record the results of these controls in the control system in SITIAgri.
- **Unit C3.2 The LPIS team:** shall be responsible of managing and maintaining all the required geographic data within the LPIS;
- **Unit C4 The Payments Unit:** shall be responsible for the execution of the payment after the approval of the Director General of the Paying Agency and the monitoring of the budget forecasts of the scheme in the PAMS (Payments Administration and Information System).
- **Unit C5 The Accounts Unit:** shall be responsible for the delivery and co-ordination of the X/I fields to be used in the payment files, for debt management and the recording of the transactions in the ARPA's books of accounts and the reporting of expenditure routine reports.

MANAGERIAL FLOW AND RELATIVE RESPONSIBILITIES FOR SUBMISSION OF REQUESTS

Each year ARPA will open short time windows to allow farmers to submit any change within their holding which will reflect on the application for the ANC intervention. Each year the application will be based on the previous year, therefore in case of changes farmers must inform ARPA to update the LPIS (Land Parcel Identification System) to avoid unnecessary penalties. During these periods farmers may also express their interest in applying for specific interventions, ARPA shall determine whether such farmers would be eligible to benefit from the indicated interventions and make sure they are reflected in the pre-filled applications.

PART II - Aid Pertaining to the ANC intervention

Introduction

All the Maltese territory is considered as a less favoured area since 2004-2006, while the same arrangement was also maintained throughout the 2007-2013 and the 2014-2020 programming period. Malta has been considered as a 100% less favoured area since 2004-2006, an arrangement which was also maintained throughout the 2007-2013 and 2014-2020 programming period. Paragraph 2 of Article 71 of Regulation 2115/2021 provides that "Payments under this Article shall be granted to active farmers in respect of areas designated pursuant to Article 32 of Regulation (EU) No 1305/2013."

In this respect, the first sub-paragraph of Article 32(4) of EC1305/2013, which stipulates the 10% area limit on classification as ANC, does not apply to Malta provided further that the same paragraph provides that this shall not apply to Member States the entire territory of which was considered as an area facing specific handicaps under Regulations (EC) No 1698/2005 and (EC) No 1257/1999. This derogation, together with the justification explained above, has allowed Malta's entire territory to be classified as an area facing specific constraints.

Furthermore, the amendment to Article 83 of Regulation (EU) 2021/2116 (2), will exempt farmers with a maximum size of holding not exceeding 10 ha of agricultural area declared in accordance with Article 69(1) of Regulation (EU) 2021/2116 from all conditionality controls and penalties.

Support under this measure offers beneficiaries a simple, standard payment per hectare of agricultural land to help ensure that this land remains under agricultural management and adheres to conditionality obligations defined in Chapter 4.2 of the CAP Strategic Plan.

Definitions

All definitions provided in the CAP Strategic Plan (CAP SP) apply throughout this entire document within the meaning provided therein.

ANC INTERVENTION- ELIGIBILITY CRITERIA

Farmers applying to receive aid under the ANC shall satisfy the baseline mandatory requirements as follows:

- beneficiary must have a holding with a minimum of one tumolo 1124 m^2 of land;
- must be registered in the IACS Farmers Registry;
- eligible land under this intervention will be made up of eligible parcels each exceeding 0.01ha
- farmers must comply with the definition of an active farmer as defined in the CAP SP;
- Applications are to be submitted within the deadlines as established by ARPA;
- Must be registered in the IACS Farmer Registry as maintained by ARPA and the Nitrates Registry as maintained by the Directorate of Agriculture at the time of application;
- All eligible hectares claimed should be unambiguously located on site and through satellite images and registered with ARPA at application stage..
- The holding on which the application is submitted shall be in Malta;

ANC – PAYMENT RATE CALCULATION

The annual payment rate shall be a uniform rate of €263.97 per Ha.

Malta will apply degressivity at a rate of 1%, to agricultural holdings with an area exceeding 5ha. Degressivity will apply for the area to pay beyond 5ha only. This degressivity will apply from claim year 2023. In this respect, another planned unit amount for holdings with more than 5ha has been established at €261.33/Ha/Yr for the area beyond 5ha.

COMPATIBILITY WITH OTHER MEASURES

Farmers applying for this measure shall not be hindered from applying for other measures under the CAP SP on the same parcels.

SPECIFIC OBJECTIVE

Specific Objective 1: Support viable farm income and resilience of the agricultural sector across the Union in order to enhance long-term food security and agricultural diversity as well as to ensure the economic sustainability of agricultural production in the Union.

Specific Objective 6: to contribute to halting and reversing biodiversity loss, enhance ecosystem services and preserve habitats and landscapes.

1. PART III - The Operational Procedures

GENERAL PROCEDURES FOR THE APPLICATION OF AID

To receive support under the ANC intervention the farmer must submit an application during the established period. Annually, a pre-filled application shall be made available to each

farmer, this pre-filled application form is issued from the IACS system which stores all the information declared by the beneficiary and other information found by the ARPA during the process of checks and controls.

Malta shall use the automatic claim system which refers to an application system for area- or animal-based interventions in which the data required by the administration on at least individual areas or animals claimed for aid are available in official computerised databases managed by the Member State and can be provided to the beneficiary when necessary.

SUBMISSION OF PAYMENT CLAIMS AID APPLICATIONS AND LATE SUBMISSIONS

The dates of receipt of applications and the conditions under which an application is assessed shall be established by the ARPA and made public through the local Government Gazette.

Farmers shall be given the opportunity to submit a late payment claim of up to 10 calendar days after the closing date.

No payment claims may be submitted after the expiry of these 10 days. In the case that the last day falls on a Saturday, Sunday or Public Holiday, the closing date is postponed to the first working day that follows. Late applications shall incur a penalty.

VERIFICATION OF SUPPORTING DOCUMENTATION BY OFFICES RESPONSIBLE FOR AUTHORISATION

Supporting documents required by the ARPA to process the application must be vetted. All documents have to be uploaded in the IACS system and original versions have to be stored in appropriate files.

Verification of any supporting documentation shall be vetted out by **Unit A1**, in addition **Unit C1** shall check the relevant supporting documentation as part of the Payment checks carried out on a sample basis as provided for in this manual.

ADMINISTRATIVE CHECKS ON APPLICATIONS

There are two types of administrative checks which are:

- Correctness of the application
- Administrative controls related to the eligibility of the application.

These checks are carried out by the IACS system and are aimed to verify:

- the eligibility criteria, commitments and other obligations for the aid scheme or support measure are fulfilled; (e.g. minimum areas at scheme/intervention and parcel level);
- there is no double financing; (parcel is only applied under one beneficiary);

- the aid application or payment claim is complete and submitted within the relevant time-limit;
- where applicable, supporting documents have to be submitted and attached in IACS;
- there is compliance with long-term commitments, as appropriate.

AMENDMENTS/ WITHDRAWALS OF APPLICATIONS

Following the submission of application, **Unit A1** may carry out amendments to the application as follows:

- Obvious error amendment – ARPA may allow for such an amendment under the following conditions:

- Required correction has been notified in writing by the applicant (attach evidence)
- Correction is due to an obvious error and request for amendment is in good faith
- Farmer was not notified of an On the Spot Check
- Amendment is before the 15th of October
- Provide a description (including the amendment) and reason for amendment

These must be clearly visible and accessed in one of the menus of the amended applications.

- Withdrawals

Applicants may choose to completely withdraw the applications. ARPA may allow for such withdrawals under the following conditions:

- Withdrawal has been notified in writing by the applicant (attach evidence)
- Farmer was not notified of an OTSC
- Withdrawal is before the 15th of October
- Provide a description (including the amendment) and reason for withdrawal

Applicants may choose to partially withdraw the application. ARPA may allow for such partial withdrawals under the following conditions:

- Partial withdrawal has been notified in writing by the applicant (attach evidence)
- Farmer was not notified of an OTSC
- Partial withdrawal is before the 15th of October
- Provide a description (including the amendment) and reason for the partial withdrawal

- Amendments due to non-compliance detected by administrative checks

ARPA shall allow for such amendments under the following conditions:

- Applicant was notified of the non-compliance by ARPA
- Provide a description (including the amendment) of the detected non-compliance (e.g. and incorrect declaration that may be detected from supporting documentation)

- Amendments due to non-compliances detected through area monitoring

ARPA shall allow for such amendments under the following conditions:

- Applicant was notified of the non-compliance by ARPA
- Provide a description (including the amendment) of the detected non-compliance

CONTROLS

Farmers may be extracted from the entire population of applications and shall be subject to On-the spot checks and administrative checks. An aid application or payment claim shall be rejected if the beneficiary or his representative prevents an on-the-spot check from being carried out, except in cases of force majeure or in exceptional circumstances.

Where it is established that the beneficiary provided false evidence for the purpose of receiving the support or failed to provide the necessary information due to negligence or refused an On-the-spot-check, the support shall be refused or withdrawn in full.

2. Calculation of Payments

ESTABLISHMENT OF AREA FOR PAYMENT

For all area-linked payments, if the area determined exceeds the area declared, the area declared shall be used for payment. If the area declared, exceeds the area determined then the area determined shall be used for payment, but all related penalties must be applied.

CALCULATION OF AID PENALTIES

If relevant penalties shall be calculated in the following order:

(a) Late submission of applications
(b) Non-declaration of all areas
(c) Over-declaration penalties
(d) Degressivity
(e) Penalties related to conditionality for that CY (if applicable)
(f) Penalties related to conditionality affecting previous claim years (if applicable)
(g) Penalties related to social conditionality

Late Submission of Payment Claims

Payment claims shall be submitted prior the date to be set by ARPA each year after which a 1% reduction per working day for late submissions shall apply up to a maximum of 10 working days. No applications submitted after this point shall be accepted.

Both the penalty and the deadline for submission shall not apply in cases of force majeure and exceptional circumstances.

Non-Declaration of areas

If during an OTSC, administrative checks or cross compliance checks ARPA determines that the farmer did not declare all the agricultural parcels related to the areas under his management and the difference between the overall holding area declared and the area of the holding, together with the area not declared is more than 3% of the area declared, then the farmer shall receive a penalty of 3%.

Calculation of area related outcomes

If a beneficiary is found to have under declared, payment shall be affected on the area declared. However, if the farmer is found to have overdeclared the amount of agriculture area eligible for funding the following mechanism shall apply:

- If the outcome of the controls results in an over declaration between 0% and 10% or the area discrepancy is equal or less than 0.1ha the payment shall be calculated on the area found.
- When the area over declared is more than 10% and the area discrepancy is more than 0.1ha the payment area shall be the area found reduced by 1.5 the area not found to a maximum penalty of 100% of the area determined.

Degressivity

If a beneficiary has an area declared that exceeds 5 Ha, the following logic shall be applied:

Area declared – 5ha= X ha
X ha * 1%= Y ha
Area to pay after 'Calculation of area related outcomes' – Y ha = provisional area to pay

Penalties related to conditionality for that CY

Any beneficiary receiving funds under the CAP must comply with the Statutory Management Requirements (SMRs) and the Good Agricultural and Environmental Conditions (GAEC) which together make up the basic obligations under conditionality and are related to the environment, climate change, good agricultural condition of land, public health, animal health and plant health, and animal welfare. Non-compliance with any of the SMRs or GAECs will result in a penalty being applied. These penalties depend on the outcome of checks entered in the control system as regards adherence to above mentioned obligations related to conditionality (if applicable).

The penalty is expressed in the form of a percentage reduction on the total potential payment during that CY. Checklists entered in the control system are based on a penalty matrix that shall produce the overall penalty to be applied. That penalty is than reflected in the payment calculation under the applications module and applied to the whole payment.

Penalties related to conditionality affecting previous claim years

These penalties depend on the outcome of checks entered in the control system as regards adherence to obligations related to conditionality. These apply when it is determined that a

particular non-compliance was identified in year N, but the actual non-compliance was persistent in previous years.

The penalty is expressed in the form of a percentage reduction on the potential payment of that intervention. Checklists entered in the control system are based on a penalty matrix that shall produce the overall penalty to be applied. That penalty is than reflected in the payment calculation under the applications module and applied to the whole payment.

Penalties related to social conditionality

These penalties depend on the outcome of checks entered in the control system as regards adherence to obligations related to social conditionality.

The penalty is expressed in the form of a percentage reduction on the potential payment of that intervention. Checklists entered in the control system are based on a penalty matrix that shall produce the overall penalty to be applied. That penalty is than reflected in the payment calculation under the applications module and applied to the whole payment.

Cases where no penalties are to be imposed

No penalties shall be imposed:

(a) where the non-compliance is due to a force majeure or exceptional circumstances as referred to in Article 3 of HZR and if confirmed as such by ARPA; moreover, in such cases the beneficiary shall retain the right to receive aid in full for applications effected by the force majeure or in exceptional circumstances.
(b) where it is determined by ARPA that the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty.
(c) where the person concerned can demonstrate to the satisfaction of ARPA that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 or if the ARPA is otherwise satisfied that the person concerned is not at fault; and
(d) the non-compliance is due to an order from a public authority.

Recovery of undue payments plus interest

Any undue payment following the occurrence of irregularity or negligence, ARPA shall request recovery from the beneficiary. The corresponding amounts shall be recorded at the time of the recovery request in the debtors' ledger of the paying agency.

ARPA shall adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Community in particular to:

- Prevent and pursue irregularities;
- Recover undue payments plus interest, and bring legal proceedings to that effect as necessary.

The recognition of debts as Irregularity shall take place within the stipulated time frames mentioned in the respective Commission Regulations. Following the recognition of debts, ARPA is obliged to recover the amounts due either through Set-Offs or Payment at bank. In order to be in line with National Law, being that the debt needs to be considered as certain, liquid and due, the debtor has to accept the debt. Then, ARPA shall be able to off-set any outstanding debt of the debtor against any future payment to be made by to the same beneficiary. The debtor can choose to settle the debt by making a Payment at Bank, being paying directly his debt at ARPA's Irregularity bank account. A receipt is issued for any amount recovered. If the debt is not recovered within the stipulated timeframe from the First Notification Letter, then ARPA would apply the interest rates as stipulated in the Commission Regulation and Laws of Malta.

Provided that Implementing acts and delegated acts concerning the implementation of the penalty system for conditionality are still not finalised, the above mechanism is subject to change in accordance with the eventual provisions of such legal text.



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