

Measure fiche

**Forestry**

Measures 8 & 15

Articles 21-26 and 34 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

*This fiche is based on the text of Regulation (EU) No 1305/2013 [EAFRD] and, when relevant, on Regulation (EU) No 1303/2013 [CPR]. The Delegated and Implementing Acts supplementing these regulations have also been considered in this guidance fiche.*

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

**1. FORESTRY IN THE CONTEXT OF THE EU RURAL DEVELOPMENT POLICY**

Forestry forms an integral part of the EU Rural Development Policy contributing to the achievement of some of the most crucial environmental, societal and economic targets of the policy. While the Treaty on the Functioning of the European Union makes no reference to specific provisions for a common EU forest policy, the EU has a long history of contributing through its different policies to implementing sustainable forest management.<sup>1</sup> However, forestry represents an important part of natural resources, and management of these resources is one of the objectives of the Rural Development Policy. In the Rural Development Regulation (article 5 (2)), "sustainable management of forests" is mentioned as part of the Union priorities for rural development.

**2. CONTRIBUTION TO FOCUS AREAS AND CROSS-CUTTING OBJECTIVES**

Apart from the role of forests in management of natural resources, forests provide key ecosystem services, such as sequestering carbon, protecting soil and water, preserving biodiversity, supplying energy and raw material for a low carbon economy, while allowing recreational activities

Investments in development of woodlands, in forest protection and in innovation in forestry and the forest-based sector contribute to the growth potential of rural areas. Moreover, many agricultural holdings are also forest owners, especially of smaller forest units, therefore combining the agricultural activity with forestry activities as additional income source.

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<sup>1</sup> COM(2013) 659 final, Brussels, 20.9.2013 "A new EU Forest Strategy: for forests and the forest-based sector" <http://ec.europa.eu/agriculture/forest/>

The forestry measures form also part of the requirement to dedicate at least 30 % of the Rural Development Funds on climate change mitigation and adaptation as well as environmental issues, as laid down in Article 59(6) of the Regulation (EU) 1305/2013.

Therefore, forestry measures are important to serve several Union priorities, but are most relevant to address:

- Priority 2: "Enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and the sustainable management of forests",
- Priority 4: "Restoring, preserving and enhancing ecosystems related to agriculture and forestry".
- Priority 5: "Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors".

### **3. WHAT'S NEW IN COMPARISON TO THE PERIOD 2007-2013**

#### **3.1. Simplified and more accessible forestry measures**

The forestry measures are in line with the principles of sustainable forest management (SFM)<sup>2</sup>. The forestry interventions in the Programming period 2014-2020 have been simplified and made more accessible. In this period most of the forestry measures are gathered together under the article 21 of the Rural Development Regulation. The replacement of the various forestry measures of the last programming period by a single forestry measure simplifies the implementation of Programmes and reduces administrative burden, especially in financial management. It also allows to propose integrated projects with higher added value than single measures.

The forestry measures cover the operations under the articles 21 and 34 of the Rural Development Regulation. Forestry related activities related to Natura 2000 are eligible under the article 30 of the Rural Development Regulation.

#### **3.2. Forest management plan**

During the period 2007-2013 it was required that investments for the improvement of economic value of forests ("Axis 1" forestry measures) had to be based on forest management plans for forest holdings above a certain size. In the new period, sustainable forest management should be ensured by introducing a similar general requirement for all forestry measures, in line with objective 3b of the EU Biodiversity Strategy<sup>3</sup>, which requests to submit "relevant information from a forest management plan" or equivalent instrument for those holdings exceeding a size limit to be set by Member States. The forest management plan consists of basic requirements for managing the forest in a sustainable way. The requested relevant information from a forest management plan should be in line with sustainable forest management as defined by the Ministerial

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<sup>2</sup> As defined in General Guidelines for the Sustainable Management of Forests in Europe (Second Ministerial Conference on the Protection of Forests in Europe 16-17 June 1993, Helsinki/Finland)

<sup>3</sup> EU Biodiversity Strategy to 2020 – towards implementation:  
<http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm>

Conference on the Protection of Forests in Europe of 1993<sup>4</sup>, and the Member States should include relevant guidance in their programmes on the applicable basis for the forest management plans or equivalent instruments.

However, in case the relevant authorities already hold such documentation and information, it is not necessary to provide this (printed) documentation to the authorities in order to avoid unnecessary administrative burden.<sup>5</sup>

### *3.2.1. Defining the threshold for submission*

The information from the forest management plan should be requested beyond a reasonable size threshold, taking into account the specific characteristics and the forest holding structure in each Member State/region. The defined limit shall correspond to the SWOT analysis of the Rural Development Programme. This aspect has been also pointed out by the European Court of Auditors<sup>6</sup> that has reported in its most recent forestry related report on large differences between the Member States as regards this threshold. In this report a situation in which a Member State had excluded 99 % of private forest holdings from this obligation was particularly criticised. Therefore, it can be expected that a majority of forest holdings receiving EU support should be requested to present the relevant information from the forest management plan or equivalent instrument.

### *3.2.2. EU support for the preparation of the forest management plans*

The EU support is available for the preparation of the Forest Management Plans under two different provisions of the Rural Development Regulation: Individual beneficiaries can be supported pursuant to the article 45(2)(e)<sup>7</sup>. In this case, the preparation of the Forest Management Plan (FMP) is part of the investment or a self-standing funding opportunity. If the forest management plan is not part of an investment, the cost of its preparation is eligible under article 25 and article 26. In addition, the forest management plans can be also supported through the article 35 "Co-operation measure" when at least two owners should co-operate.

## **3.3. Beneficiaries**

In the period of 2007-2013, with regard to some forestry measures, support was limited to forests owned by private owners or municipalities with some additional limitations on the identity of the beneficiary himself. For the period 2014-2020 distinctions are made, in principle, between the ownership of the forest on the one hand and the identity of the beneficiary on the other hand. The main objective is to provide support to the

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<sup>4</sup> Ministerial Conference on the Protection of Forests in Europe: Relevant definitions used for the improvement Pan-European indicators for Sustainable Forest Management: [http://www.foresteurope.org/docs/reporting/CI\\_Definitions\\_used.pdf](http://www.foresteurope.org/docs/reporting/CI_Definitions_used.pdf)

<sup>5</sup> In some Member States there are very detailed digital databases on forests including those aspects (e.g. biodiversity, protection, protective and social functions) which are traditionally covered by the "printed" forest management plans.

<sup>6</sup> European Court of Auditors: Preliminary observations (pursuant to Article 287(4), second subparagraph, TFEU) Support for the Improvement of the economic value of forests from the European Agricultural Fund for Rural Development

<sup>7</sup> However, the article 45 does not introduce a separate, self-standing funding opportunity. These kind of investments fall under the article 25 and 26 of the Rural Development Regulation where they can be considered as stand-alone investments for improvement and enhancement of forest potential.

person/entity managing the forest. Moreover, the forests owned by the state are not excluded *per se* under any of the articles. However, certain restrictions apply and in some articles (article 22 "afforestation" and 34 "forest-environment" it is allowed to support a forest owned by the state (at national or regional level) where such publicly owned forest is leased out to a "holder" (who "manages" the forest in the same sense as a farmer "farms" a leased parcel ) a private entity or a municipality. However, in case of afforestation the land owned by public authorities the support does not cover the costs for income foregone or for maintenance. Under the articles 24 and 25 the state/other public bodies can be both beneficiary and owner because of public benefit and other ecosystem services provided, as well as under Article 34(4) for the conservation and promotion of genetic resources.

The term "private forest-holder" refers to a private entity managing forest land of unspecified ownership (the word "**private**" refers to the holder, not to the forest). As regards private companies, the definition is based on national law in each Member State/region. Consequently, a state-owned company could be a beneficiary falling under the category "private forest-holder" in case the company is defined as "private" according to the national law.

The holder of the forest holding is the natural person, group of natural persons or the legal person on whose account and in whose name the holding is operated and who is legally and economically responsible for the holding, i.e. who takes the economic risks of the holding. The forest holder can own the holding outright or rent it or be a hereditary long term leaseholder or a usufructuary or a trustee. All partners on a group holding who take part in the forestry work on the holding are considered to be holders. The legal and economic responsibility is defined according to Member States' documented own rules. The holder may have delegated all or part of his/her power of decision of the normal daily financial and production routines of running of the holding to a manager. In the case of shared forest holding the shareholders can designate a person (forest holder/manager), who is responsible for the property.

### 3.4. Definitions

A common definition for 'forest' has been adopted in the Rural Development Regulation, and could be detailed in the Rural Development Programme by the Member State/region. The definition details a "forest", as follows: *'forest' means an area of land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10 percent, or trees able to reach these thresholds in situ. It does not include land that is predominantly under agricultural or urban land use. A Member State or region may choose to apply another forest definition based on existing national legislation or inventory system. The Member States or Regions shall provide the definition in the rural development programme.*

In case forestry operations take place also in "other wooded areas", a definition to such areas should be also included in the Rural Development Programme accordingly. The definition could follow the definition for 'other wooded' areas, as defined in the implementing regulation of the Rural Development for the period 2007-2013 (referring to FAO definition): *"Wooded areas' means land not classified as 'forest', spanning more than 0,5 hectare, with trees higher than 5 metres and a canopy cover of 5-10 percent, or trees able to reach those thresholds in situ, or with a combined cover of shrubs, bushes and trees above 10 percent. The term does not include land that is predominantly under agricultural or urban use."*

As regards the "forest holding" the following definition, following the definition of the United Nations Economic Commission for Europe's definition<sup>8</sup>, may be applied: *One or more parcels of forest and other wooded land which constitute a single unit from the point of view of management or utilisation. For State-owned forest and other wooded land a holding may be defined as the area forming a major management unit administered by a senior official, .e.g. a Regional Forestry Officer. For forest and other wooded land that is owned publicly, other than by the State, or owned by large-scale forest owners, e.g. forest industries, a holding may constitute a number of separated properties which are, however, managed according to one corporate strategy. Under any category of ownership, other than State-owned, one holding may be the property of one or several owners.*

### **3.5. State aid**

The forest sector falls outside of the scope of Article 42 of the TFEU. Therefore, any State aid in the forest sector is subject to Articles 107, 108 and 109 of the TFEU. For forestry measures in the 2014-2020 rural development programmes, Member States have to indicate adequate State aid clearance (compliance with the general de minimis, block exemption number or Commission approval decision following notification to the European Commission).

The European State aid legal instruments, applicable also to the forestry sector have been revised as part of the State aid modernization (SAM) package. Tailor made rules for rural development forestry measures are laid down in the Commission Regulation (EU) No 702/2014 for block exempting rural development forestry aid and in the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 laying down the compatibility conditions for aid that is to be notified to the Commission. The horizontal State aid rules can also apply, such as the general de minimis Regulation 1407/2013, Commission Regulation (EU) No 651/2014 (GBER), Regional aid guidelines, Framework for State aid for research, development and innovation, as well as Guidelines on State aid forenvironmental protection and energy 2014-2020.

One of the simplification objectives in the context of the revision of the State aid rules applicable in the forestry sector was to make possible to block exempt forestry measures. Many forestry measures forming part of the Rural Development Programmes [can follow now this administratively less burdensome procedure, instead of being formally notified](#) to the European Commission.

### **3.6. Transitional arrangements**

#### *3.6.1. Multiannual area related commitments (forest-environment payments)*

According to Regulation (EU) No 1310/2013 of the Parliament and the Council on transition, with regard to multiannual area related commitments, Member States may continue to undertake new legal commitments to beneficiaries in 2014 pursuant to the rural development programmes adopted on the basis of Regulation (EC) No 1698/2005 even after the financial resources of the 2007-2013 programming period have been used

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<sup>8</sup> UNECE: <http://www.unece.org/fileadmin/DAM/timber/fra/definit.htm#Holding>

up, provided that the application has been submitted before the adoption of the respective rural development programme for the 2014-2020 programming period.

Payments to these commitments can be financed from the budget 2014-2020, in case where the financial resources from the period 2007-2013 have been exhausted.

The cross-compliance rules and baseline of the 2007-2013 programming period will apply for the forest-environment measure in 2014 even if operations are undertaken under the new programme (see in 3.12).

All contracts concluded after 31 December 2011 under the rules of Regulation 1698/2005, and falling under the forest-environment measure will have to be adjusted to the new legal framework in 2015, according to Article 46 (last paragraph) of Regulation (EC) 1974/2006.

### *3.6.2. First afforestation of agricultural and non-agricultural land*

It should be noted that Article 1 of the basic act on transition, Regulation (EU) No 1310/2013 of the Parliament and of the Council overrules Commission Regulation (EU) No 335/2013 (Article 1(5) and (6)) as regards the transition rules on afforestation. Therefore, in 2014 it is possible to undertake new legally binding commitments under Measure 221: First afforestation of agricultural land and Measure 223: First afforestation of non-agricultural land, under the rules of Regulation (EC) No 1698/2005, both using the financial envelope of the programming period 2007-2013 and the financial envelope of the programming period 2014-2020.

When the current budget is exhausted, or after 31.12.2015, whichever dates comes first, payments will continue to be eligible from the budget for the period 2014-2020.

### *3.6.3. Other forestry operations*

Commitments may be undertaken in 2014 and 2015, under the provisions of Regulation (EC) No 1698/2005, from the budget for the period 2007-2013, or for the 2014 from the budget for the period 2014-2020 if the budget for period 2007-2013 is exhausted.

When the current budget is exhausted, or after 31.12.2015, whichever dates comes first, payments will continue to be eligible from the budget for the period 2014-2020.

## **3.7. Afforestation and creation of woodland**

The types of interventions are defined to correspond to the actual requirements and suggestions for improvement of the measure<sup>9,10</sup>. The afforestation measure has been also simplified and widened in terms of payments.

New elements:

- Afforestation of agricultural and non-agricultural land are in one sub-measure on the contrary to the two different measures during the period of 2007-2013.

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<sup>9</sup> Review of Rural Development Instruments: DG Agri project 2006-G4-10  
[http://ec.europa.eu/agriculture/analysis/external/rurdev/ex\\_sum\\_en.pdf](http://ec.europa.eu/agriculture/analysis/external/rurdev/ex_sum_en.pdf)

<sup>10</sup> European Court of Auditors: SPECIAL REPORT No 9/2004 on Forestry Measures within Rural Development Policy, together with the Commission's replies

Consequently, the procedure for checking the payment calculation is simpler due to the fact that it is no longer needed to check whether the land concerned is agricultural land or other type of land; or whether the beneficiary is farmer or non-farmer.

- The maintenance costs can be paid up to 12 years instead of 5 years.
- Afforested areas are eligible for the direct payments (under the first pillar of the Common Agricultural Policy) for the period of the commitment). Therefore, the afforested areas may benefit simultaneously from the direct payments under the First Pillar of the Common Agricultural Policy (CAP) and from maintenance support and higher establishment costs (compared to the previous period) under the Second Pillar of the CAP.
- Plantation of short rotation coppice is not supported.

### **3.8. Establishment of agroforestry systems**

The scope of the agroforestry measure has been enlarged, and during the period 2014-2020 the maintenance costs are also included, apart from the costs of establishment.

The Member States shall define the minimum and maximum number of trees per hectare and the **forest species**<sup>11</sup> to be planted.

### **3.9. Prevention and restoration of damage to forests from forest fires and natural disasters and catastrophic events**

As novelties, the prevention measure has been opened up to preventive actions against pests and diseases, covering also under certain conditions natural disasters, catastrophic events and climate change related events.

Introducing pests and diseases prevention as natural disasters, and considering other calamities such as drought and desertification streamlines the scope of interventions. Furthermore, extension of the concept to natural hazards, pests and diseases simplifies the process of applying for support: previously these interventions were divided between the forest environment and non-productive investments.

### **3.10. Investments improving the resilience and environmental value of forest ecosystems**

The scope of the measure has been strengthened by emphasising the importance of providing ecosystem services and by covering the enhancement of climate change mitigation potential of ecosystems.

### **3.11. Investments in forestry technologies and in processing, mobilising and marketing of forest products**

The sub-measure defined under article 26 of the Rural Development Regulation groups together the former Axis 1 forestry interventions (processing, marketing, improvement of economic value of forests).

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<sup>11</sup> Forestry species (trees and other woody perennials) are to be defined by the Member State/region

The scope of the measure is opened up as regards the investments for the improvement of the economic value of forests. The investments are no longer tied to ownership of the land or a specific holding. Therefore, support can be granted also in cases where the value of investment exceeds the needs related to the size of one particular forest holding, thus providing more important added value for the EU supported investments.

In addition, the mobilising of wood is now explicitly mentioned as eligible investment.

### **3.12. Forest-environmental and climate services and forest conservation**

As a novelty, the conservation and promotion of forest genetic resources are covered as eligible investment under this measure.

The baseline of the 2007-2013 programming period will apply for the forest-environment measure in 2014 even if operations are undertaken under the new programme.