



# Eligibility for direct payments of the Common Agricultural Policy 2023-2027

*This fiche summarises the basic definitions and eligibility conditions for Direct Payments under Regulation (EU) No 2021/2115 and presents in graphical format some of the main policy choices that Member States have made in this respect. It reflects the content of the CAP plans as approved by the European Commission to date. It is made available without prejudice to any finding in respect of their compliance with the regulatory framework. It is provided 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 Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.*

## August 2023

Majority of direct payments are granted to farmers in the form of a per-hectare basis, the Basic income support for sustainability ([BISS](#)), complemented by a series of other supports targeting specific objectives<sup>1</sup>:

- the complementary redistributive income support for sustainability ([CRISS](#)),
- the complementary income support for young farmers ([CIS-YF](#))
- the schemes for the climate, the environment and animal welfare ([eco-schemes](#)),
- the coupled income support ([CIS](#)) and the crop-specific payment for cotton.

They are meant to provide a safety net acting as a buffer to farmers' income stemming from sales on the markets, which are subject to volatility, and to compensate for the low profitability of the sector.

This note summarises the basic provisions which beneficiaries need to respect to be eligible for direct payments, i.e.:

- comply with the so-called "minimum requirements",
- qualify as active farmers,
- have agricultural land at their disposal and use it for an agricultural activity.

In Member States implementing the Basic Payment Scheme, farmers must also hold **payments entitlements** which give right to a predetermined amount per hectare. For more information on the conditions to receive such payment entitlements, please see the informative note on the BISS.

To access the payments, farmers have to **submit an aid application** every year declaring, inter alia, all the agricultural parcels on the holding. Member States help farmers with a draft (pre-established) aid application, in a graphical format such as maps or satellite imagery, indicating the size of the areas determined in the previous year.

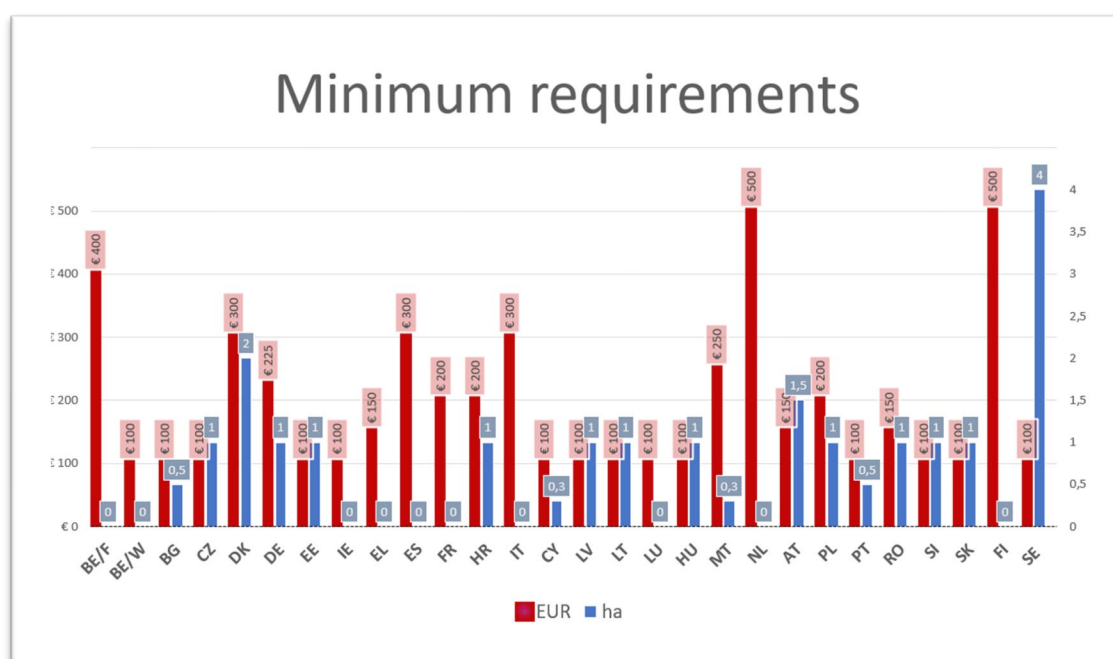
<sup>1</sup> For more information on the 2023-2027 support schemes (Regulation (EU) No 2021/2115), please see [https://agriculture.ec.europa.eu/common-agricultural-policy/income-support\\_en](https://agriculture.ec.europa.eu/common-agricultural-policy/income-support_en)

Farmers are subject to other conditions, such as [conditionality](#), but these are not *per se* eligibility conditions. They may trigger penalties when they are not respected.

## 1. THE "MINIMUM REQUIREMENTS"

To avoid the excessive administrative burden caused by managing payments of small amounts and ensure that direct payments contribute to viable farm income support, the direct payments are not granted to farmers where the amount of direct payments would be very low. The Member States have defined their respective minimum thresholds<sup>2</sup> as an amount (ranging between €100 and €500) and/or as minimum area of the holding (0.3 ha to 4 ha).

The decisions taken by the Member States on minimum requirements for granting direct payments are summarised in the table below.



## 2. ACTIVE FARMER

Applicant farmers have to comply with the requirements set by Member States for being considered active farmers.

### 2.1 Definition of farmer

A **farmer** is a natural or legal person, or a group of natural or legal persons, whose holding is situated within the territory of the European Union and who exercises an agricultural activity. No specific legal status is required.

### 2.2 Which farmers qualify as active farmers?

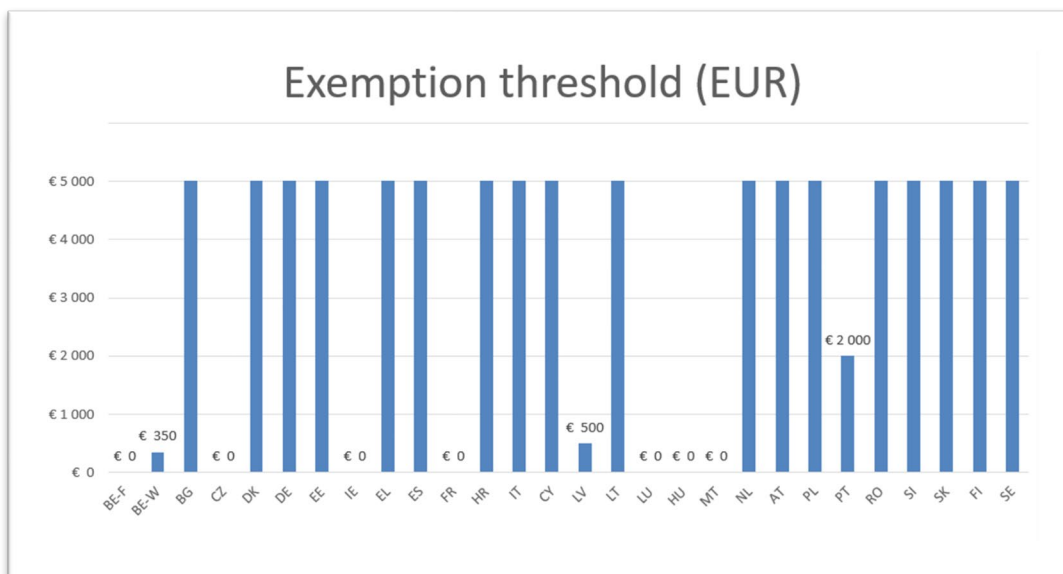
The active farmer definition aims at granting support only to farmers engaged in at least a minimum level of agricultural activity<sup>3</sup>.

Member States fixed objective and non-discriminatory criteria to be considered when determining an active farmer, such as income tests, labour inputs on the farm, company object or inclusion in national or regional registers. Member States may complement their criteria by drawing a negative list of non-agricultural activities

<sup>2</sup> Article 18 of Regulation (EU) 2021/2115

<sup>3</sup> Article 4(5) of Regulation (EU) 2021/2115

compared to which the agricultural activities are typically marginal. Independently from the above, the Member States may also decide to consider 'active farmers' those who did not receive direct payments exceeding a certain amount for the previous year, but this amount cannot be higher than EUR 5000. The reason for this is not to exclude part-time farmers, exercising also another activity. The table below illustrates the level of direct payments fixed by the Member States under which a farmer is by definition considered an active farmer.



### 3. AGRICULTURAL ACTIVITY ON ELIGIBLE AGRICULTURAL LAND

To receive direct support, the land claimed should be an agricultural area, used for an agricultural activity and should be at the disposal of the applicant farmer.

#### 3.1 Definition of agricultural area

As a rule, the agricultural area is land suitable to produce agricultural products. Forests are in principle not eligible. Agricultural area is thus classified as one of the following: Arable land, Permanent crop, or Permanent grassland. These three categories are better defined by the Member States taking into account their specificities.<sup>4</sup> Member States can decide e.g., that permanent grassland includes land which can be grazed even though grasses and other herbaceous forage are traditionally not predominant or are absent in grazing areas.

#### 3.2 What is an eligible hectare?

In the context of direct payments, **eligible hectare**<sup>5</sup> in principle means any agricultural area of the holding **that is used for agricultural activity**.

First, the parcels declared annually must be **at the farmer disposal**. There is no provision that stipulates the exact nature of the legal relationship on the basis of which the area concerned is held by the farmer. However, the land has to be at the farmer's disposal in a lawful way and asserted on a legal basis in accordance with applicable national law. The Member States have a general obligation to carry out systematic administrative controls (not just limited to obvious cases of double or conflicting claims), and the discretion to require appropriate proof, requiring both actual and lawful land use.

<sup>4</sup> Article 4(3) of Regulation (EU) 2021/2115

<sup>5</sup> Article 4(4) of Regulation (EU) No 2021/2115

Considering the likelihood of occasional and temporary use of agricultural land for activities which are not strictly agricultural and given the potential of certain non-agricultural activities to contribute to the income diversification of agricultural holdings, the land may remain eligible also if it is used for non-agricultural activities, provided that the agricultural activities are predominant, in accordance with the criteria established by the Member State concerned.

Finally, the land remains an eligible hectare<sup>6</sup> when it is subject to certain obligations under GAEC standard 8, or under an eco-scheme<sup>7</sup> preventing the exercise of any agricultural activity or making the land unfit for production.

### 3.3 Scope of the agricultural activity

In the framework of direct support, the agricultural activity<sup>8</sup> is defined either as:

- Production of agricultural products (listed in Annex I of the Treaty with the addition of cotton and short rotation coppice), which includes actions such as raising animals or cultivation including by way of paludiculture or
- Maintenance of the agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries.

The Member States may further define these two categories of agricultural activity. To be considered eligible for payments, any single part of the agricultural area should be utilized for an agricultural activity each year. However, where duly justified for environmental, biodiversity and climate-related reasons, Member States may decide that also when the agricultural activities are performed only every second year the land remains eligible for direct payments.

Moreover, agricultural areas which may not be used for an agricultural activity as a result of specific commitments (e.g., afforested under a support scheme, or set aside, or under the framework of Directives Natura 2000), may remain eligible for direct payments under certain conditions<sup>9</sup>.

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<sup>6</sup> Article 4(4)(b) of Regulation (EU) No 2021/2115

<sup>7</sup> Article 31 of Regulation (EU) No 2021/2115

<sup>8</sup> Article 4(2) of Regulation (EU) No 2021/2115

<sup>9</sup> Article 4(4)(c) of Regulation (EU) No 2021/2115