



Proposal of the German Delegation on **Eligibility of landscape features**

In a concept of area-related support, it is essential to determine which areas can be eligible. This also includes the question to what extent landscape features can be part of the eligible area. Such essential points must be dealt with in the basic act.

As far as the eligibility of landscape features is concerned, the current rules under Article 34 paragraphs 2-4 of Regulation (EC) No 1122/2009 are extremely complicated and burdensome to implement: Landscape features either have to be attributed to one of many complicated exceptional rules (including Cross Compliance protection) in order to consider them as an eligible part of the agricultural parcel or they must be deducted from the eligible area. Excluding them from eligibility is not an appropriate option as such elements have valuable environmental benefits. At the same time, situations on the spot differ very much between Member States. We therefore suggest a simplified rule to be included in the Horizontal Regulation which allows Member States to choose options according to their environmental and administrative needs.

Article 71a (new)

Eligibility of landscape features

- 1. Any features referred to in the rules on Cross Compliance according to Article 93 and Annex II shall form part of the total area of an agricultural parcel eligible under the support schemes listed in Article 68.**
- 2. Member States may decide that additional landscape features other than those mentioned in paragraph 1 are eligible, provided that they are situated within or directly adjacent to an agricultural parcel. Such landscape features may in total not exceed [25] % of the area of the agricultural parcel concerned.**
- 3. Notwithstanding paragraphs 1 and 2, additional landscape features may be eligible for support under Article 29 of Regulation (EU) No xxx/xxx [RD] if provided for in the Rural Development Programme.**

Further details could be set in a Commission Regulation based on Article 77 (2) (b), although we would prefer this Regulation to be an implementing act.

Justification:

Paragraph 1 takes up the current rule according to which any landscape feature protected under cross compliance is automatically eligible for support (Article 34 (3) of Regulation (EC) No 1122/2009).

Paragraph 2 offers the possibility to include additional landscape features in the eligible area. This can be relevant e.g. for areas of permanent pasture with many small bushes and trees scattered across the parcel. Such areas are very valuable under an environmental point of view; however the current rules under article 34 of Regulation (EC) No 1122/2009 make it very difficult to consider the whole parcel (thus including landscape features) as eligible. Including all of them in Cross Compliance protection is not an option as it is nearly impossible to register and control all these (often small!) features under Cross Compliance.

The proposed rule is supposed to allow 100 % funding for such areas. However, as agricultural use should still be predominant, there is an upper limit of 25 %. As long as landscape features other than those under cross compliance do not make up more than 25 % - which will be the case for most agricultural parcels concerned -, the whole agricultural parcel including the landscape features is eligible. In that case, the landscape features do not need to be declared one by one by the farmer nor do they have to be mapped in the LPIS. At the same time, there is an incentive for farmers to have landscape features on their parcels; however, they must keep them in such condition that 25 % are not exceeded.

In certain types of landscapes, it is even more valuable to have more than 25 % of landscape features. Such areas can be funded in agri-environment climate measures with very specific maintenance requirements. Paragraph 3 explicitly mentions that option.

We would like to emphasize that the proposed provision only concerns the question of *eligibility*. The question if and how landscape features can count as *ecological focus areas* under Article 32 of the draft Direct Payments Regulation is *independent* thereof.