

EFFAT position on sanctions to be applied in the context of CAP Social conditionality

Adopted by the EFFAT Executive Committee on 21-22 November 2022

Introduction

The adoption of social conditionality in the Common Agriculture Policy (CAP) has been an important achievement for working people in the agriculture sector. All Member States will have to implement a system of social conditionality at the latest by 2025. Some member states have committed to introduce social conditionality already in 2023 and others in 2024.

According to the principle of social conditionality, employers benefiting from CAP subsidies are subject to an administrative penalty if they do not comply with the requirements related to applicable working and employment conditions or employer obligations arising from a number of EU legal acts identified in Annex IV of the [CAP Strategic Plans Regulation](#).

Article 89 of the [CAP Horizontal Regulation](#) states that the administrative penalties shall be applied by ***means of reduction or exclusion of the total amount of the payments***. For the calculation of those reductions and exclusions, ***account shall be taken of the severity, extent, permanence or reoccurrence and intentionality of the non-compliance determined...omissis... The administrative penalties imposed shall be effective, proportionate and dissuasive.***

The identification of a sanctioning system for social conditionality will have to be adopted at national level. Such system shall identify the extent of the reduction of CAP payments as a consequence of the identified violation of workers' rights. The system shall consider the severity, extent, permanence or reoccurrence and intentionality of the non-compliance concerned. Moreover, the cases of total exclusion should also be identified.

According to article 14 of the CAP Strategic Plans Regulation *when including a system of administrative penalties in their CAP Strategic Plans as referred in paragraph 1, Member States shall, in accordance with their institutional provisions, **consult relevant national social partners representing management and labour in the agriculture sector***. EFFAT affiliates must therefore be fully involved in the discussion around the sanctioning system and more broadly the introduction of social conditionality.

EFFAT considers absolutely crucial to achieve an harmonized system of social conditionality across member states with similar level of sanctions across Europe and invites the Commission to engage with EFFAT to discuss such harmonization.

Against this background, the EFFAT Executive Committee gathered in Brussels on 21-22 November 2022 has officially adopted this position on sanctions to be applied in the context of CAP Social Conditionality.

1) Transparent and predictable working conditions - Directive 2019/1152

Percentages identified below correspond to a reduction of CAP payments received by a given employer. Each percentage apply in case **one worker only is affected**. The indicated sanction therefore **duplicates for any additional employee affected**. This is to take into account the **extension** of the identified violation (the same principle applies for the other directives below). For example, in case of 3 workers affected by intentional *not provision of essential aspects of workers' employment relationship* (Article 4 in yellow below), the sanction goes up to 60%. With 5 workers affected it goes up to total exclusion (100%).

Applicable legislation	Relevant provisions	Requirements	Non-Compliance due to negligence <i>(Only if it applies in the national system)</i>		Intentional non-compliance	
			First time	Recurrence or persistence <i>(more than once within a consecutive period of 3 years or duration for more than 1 year)</i>	First time	Recurrence or persistence <i>(more than once within a consecutive period of 3 years or duration for more than 1 year)</i>
Transparent and predictable working conditions Directive 2019/1152	Article 3	Employment conditions to be provided in writing ('employment contract')	10%	20%	20%	40%
	Article 4	Information on essential aspects of employment relationship	10%	20%	20%	40%
	Article 5	Employment contract with key info to be provided within first seven days of working	7%	10%	20%	30%
	Article 6	Changes to the employment relationship to be provided in documentary form	5%	7%	15%	20%

Transparent and predictable working conditions Directive 2019/1152	Article 8	Probationary period	5%	7%	15%	20%
	Article 10	Conditions regarding minimum predictability of work	7%	10%	15%	25%
	Article 13	Mandatory training	7%	10%	20%	30%

2) Measures to encourage improvements in safety and health of workers Directive 89/391/EEC

Sanctions indicated below apply to **each employee affected** (see above). Moreover, in case of short-term occupational sickness (4 to 12 weeks), medium-term occupational sickness (12 weeks to 1 year) and long-term occupational sickness (1 year and beyond) an additional reduction applies of respectively 5%, 7%, 15% for each worker affected. **Fatality at work lead to total exclusion of payments irrespectively of the number of employees affected.**

Applicable legislation	Relevant provisions	Requirements	Non-Compliance due to negligence <i>(Only if it applies in the national system)</i>		Intentional non-compliance	
			First time	Recurrence or persistence <i>(more than once within a consecutive period of 3 years or duration for more than 1 year)</i>	First time	Recurrence or persistence <i>(more than once within a consecutive period of 3 years or duration for more than 1 year)</i>
Measures to encourage improvements in safety and health of workers Directive 89/391/EEC	Article 5	General provision laying down duty of employer to ensure safety and health of workers	15%	20%	20%	40%
	Article 6	General obligation on employers to take measures necessary for safety and health protection, including prevention of risks and provision of information and training	15%	20%	25%	40%
	Article 7	Protective and preventive services: worker(s) to be designated for health and safety activities or competent external service to be engaged	5%	7%	15%	20%

	Article 8	Employer to take measures for first aid, fire-fighting and evacuation of workers	5%	10%	15%	20%
	Article 9	Obligations on employers regarding assessment of risks, protective measures and equipment, recording and reporting of occupational accidents	15%	20%	25%	40%
	Article 10	Provision of information to workers on safety and health risks and protective and preventive measures	5%	10%	15%	20%
	Article 11	Consultation and participation of workers in discussions on all questions relating to safety and health at work	5%	10%	15%	20%
	Article 12	Employer to ensure that workers receive adequate safety and health training	5%	10%	15%	20%

3) Minimum safety and health requirements for use of work equipment by workers - Directive 2009/104/EC

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			First time	Recurrence or persistence <i>(more than once within a consecutive period of 3 years or duration for more than 1 year)</i>	First time	Recurrence or persistence <i>(more than once within a consecutive period of 3 years or duration for more than 1 year)</i>
Minimum safety and health requirements for use of work equipment by workers Directive 2009/104/EC	Article 3	General obligations to ensure that work equipment is suitable for work to be carried out by workers without impairment of safety or health	15%	20%	20%	40%
	Article 4	Rules concerning work equipment: must comply with the Directive and established minimum requirements and be adequately maintained	10%	15%	20%	30%
	Article 5	Inspection of work equipment – equipment to be inspected after instalment and periodic inspections by competent persons	5%	7%	15%	20%

	Article 6	Work equipment involving specific risks to be restricted to persons tasked with using it and all repairs, modifications, maintenance to be performed by designated workers	5%	10%	15%	20%
	Article 7	Ergonomics and occupational health	3%	7%	10%	15%
	Article 8	Workers to receive adequate information and, where appropriate, written instructions on use of work equipment	5%	10%	15%	20%
	Article 9	Workers to receive adequate training	5%	10%	15%	20%