

Commission Notice amending the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020

(2015/C 390/05)

The European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 ⁽¹⁾ are amended as follows:

(1) in point (6), point (a) is replaced by the following:

‘(a) Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 (*);

(*) OJ L 317, 4.11.2014, p. 56.’;

(2) in point (7), the first sentence is replaced by the following:

‘The CAP is based on two pillars: the first pillar consists of instruments related to the functioning of agricultural markets and the food supply chain (Regulation (EU) No 228/2013, Regulation (EU) No 229/2013, Regulation (EU) No 1308/2013 and Regulation (EU) No 1144/2014) and to direct payments (Regulation (EU) No 1307/2013) conditional upon statutory management requirements, good agricultural and environmental conditions.’;

(3) in point (14), the last sentence is replaced by the following:

‘However, there are various derogations from this general principle which are laid down, amongst others, in Article 23 of Regulation (EU) No 228/2013, Article 17 of Regulation (EU) No 229/2013, Article 13 of Regulation (EU) No 1307/2013, Article 211(2) of Regulation (EU) No 1308/2013 and Article 27 of Regulation (EU) No 1144/2014.’;

(4) in point (26), the fifth and sixth sentences are replaced by the following:

‘If the financial difficulty of an undertaking active in the agricultural and forestry sectors has been caused by the risk event referred to in Sections 1.2.1.2, 1.2.1.3, 1.2.1.5, 2.1.3, 2.8.1 or 2.8.5 of Part II of these Guidelines, aid to compensate for or restore the losses or damage caused by such risk events and to cover the costs of eradication of plant pests can be granted in line with these Guidelines and may be still found compatible with the internal market under Article 107(3)(c) of the Treaty. In addition, for reasons of public health protection and having in mind the emergency situation, no distinction should be made, under certain conditions, as to the economic situation of an undertaking for aid for destruction and removal of fallen stock in Section 1.2.1.4 and for aid for control and eradication measures in the case of animal diseases referred to in point (375) of Section 1.2.1.3 of Part II of these Guidelines.’;

(5) in point (27), the last sentence is replaced by the following:

‘This does not apply to aid to make good the damage caused by natural disasters and exceptional occurrences under Article 107(2)(b) of the Treaty.’;

(6) point (48) is replaced by the following:

‘(48) The Commission considers that the principle of contribution to the objectives of rural development is met regarding the aid measures in Sections 1.1.10.3, 1.2, 1.3, 2.8 and 2.9 of Part II of these Guidelines, which are outside the scope of rural development, since the Commission has gained sufficient experience as to the contribution of those measures to the rural development objectives.’;

⁽¹⁾ OJ C 204, 1.7.2014, p. 1.

(7) in point (52), the eighth sentence is replaced by the following:

‘For example, in the case of an aid scheme for investments which are intended to increase production, and which involve an increased use of scarce resources or an increase in pollution, it will be necessary to show that the scheme will not result in an infringement of the applicable Union legislation, including environmental protection legislation (*), and the Good Agricultural and Environmental Conditions (GAECs) of cross-compliance under Regulation (EU) No 1306/2013.

(*) As regards the Union environmental legislation: Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7) (“the Birds Directive”); Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7) (“the Habitats Directive”); Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1) (“the Nitrates Directive”); Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1) (“the Water Framework Directive”); Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19) (“the Groundwater Directive”); Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71) (“the Sustainable Use of Pesticides Directive”); Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1); Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1) (“the Environmental Impact Assessment Directive”); and where applicable Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30) (“the Strategic Environmental Assessment Directive”).;

(8) in point (75):

(a) point (f) is replaced by the following:

‘(f) aid to compensate for the costs of the prevention, control and eradication of animal diseases and plant pests and for losses caused by those animal diseases and plant pests in accordance with Section 1.2.1.3 of Part II;’

(b) point (m) is replaced by the following:

‘(m) aid for promotion measures in accordance with point (464)(b), (c) and (d);’

(c) the following point (r) is added:

‘(r) aid for the costs of treatment and preventing the spreading of pests and tree diseases and aid to make good the damage caused by the pests and tree diseases in accordance with Section 2.8.1 of Part II;’

(9) in point (93), the first sentence is replaced by the following:

‘Member States may fix the aid amount for the measures or types of operations referred to in Sections 1.1.5, 1.1.6, 1.1.7, 1.1.8, 2.2, 2.3, 3.4 and 3.5 of Part II of these Guidelines on the basis of standard assumptions of additional costs and income foregone.’;

(10) point (138) is replaced by the following:

‘(138) Where more than one agricultural holding carry out the investment for the production of energy from renewable sources with the aim to serve their own energy needs or for the production of biofuels on holdings, the annual average consumption is equivalent to the sum of the annual average consumption of all beneficiaries.’;

(11) point (140) is replaced by the following:

‘(140) Investments in installations, the primary purpose of which is electricity production from biomass, are not eligible for aid unless a minimum percentage of the heat energy produced is utilised, to be determined by the Member States.’;

(12) point (177) is replaced by the following:

‘(177) Member States must define the upper and lower thresholds for access to start-up aid for young farmers and the development of small farms in terms of the production potential of the agricultural holding, measured in standard output, as defined in Article 5b of Council Regulation (EC) No 1217/2009 (*) and Article 6 of Commission Implementing Regulation (EU) 2015/220 (**), or an equivalent. The lower threshold for access to start-up aid for young farmers must be higher than the upper threshold for access to aid for the development of small farms.

(*) Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Union (OJ L 328, 15.12.2009, p. 27).

(**) Commission Implementing Regulation (EU) 2015/220 of 3 February 2015 laying down rules for the application of Council Regulation (EC) No 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Union (OJ L 46, 19.2.2015, p. 1).;

(13) point (230) is replaced by the following:

‘(230) For the conservation of genetic resources in agriculture, the aid must be limited to 100 % of the eligible costs.’;

(14) point (255) is replaced by the following:

‘(255) Additional costs and income foregone must be calculated in comparison to areas which are not affected by natural or other specific constraints, taking into account payments pursuant to Chapter 4 of Title III of the Regulation (EU) No 1307/2013.’;

(15) in point (282)(b), point (iv) is replaced by the following:

‘(iv) the quality scheme must be transparent and ensure complete traceability of agricultural products.’;

(16) point (296) is replaced by the following:

‘(296) Aid referred to in point (293)(a) and (c) and (d)(i) to (iv) must not involve direct payments to the beneficiaries and must be paid to the provider of knowledge transfer and information action. Aid for the costs of the provision of replacement services referred to in point (293)(c) may, alternatively, be paid directly to the provider of the replacement services. Aid referred to in point (293)(d)(v) must be paid directly to the beneficiaries. Aid for small-scale demonstration projects, referred to in point (293)(d)(i) to (iv), may be paid directly to the beneficiaries.’;

(17) point (302) is replaced by the following:

‘(302) Advice may cover other issues and in particular the information related to climate change mitigation and adaptation, biodiversity and protection of waters as laid down in Annex I to Regulation (EU) No 1306/2013 or issues linked to the economic and environmental performance of the agricultural holding, including competitiveness aspects. This may include advice for the development of short supply chains, organic farming and health aspects of animal husbandry.’;

(18) point (310) is replaced by the following:

‘(310) Aid covers the real costs incurred for the replacement of a farmer, a natural person who is a member of farm household, or a farm worker, during their absence from work due to illness, including illness of their child, holidays, maternity and parental leave, mandatory military service or in case of death.’;

(19) point (311) is replaced by the following:

‘(311) The total duration of the replacement should be limited to three months per year per beneficiary, with the exception of replacement for maternity and parental leave and replacement during mandatory military service. For maternity and parental leave, the duration of the replacement shall be limited to six months in each case. However, in duly justified cases the Commission may authorize a longer time period. For mandatory military service, the duration of the replacement shall be limited to the duration of the service.’;

(20) point (334) is replaced by the following:

‘(334) The aid scheme must be established within three years from the date of the occurrence of the event, and the aid must be paid out within four years of that date. For a specific natural disaster or exceptional occurrence, the Commission will authorise separately notified aid that derogates from this rule in duly justified cases, for example due to the nature and/or extent of the event or delayed or continuing nature of the damage.’;

(21) in point (347), the reference to ‘point (35).31’ is replaced by a reference to ‘point (35).34’;

(22) in point (374), the first sentence is replaced by the following:

‘In the case of prevention measures (i.e. measures regarding an animal disease or plant pest that has not yet occurred), the aid may cover the following eligible costs’;

(23) in point (375), the first sentence is replaced by the following:

‘In the case of control and eradication measures (i.e. measures regarding animal diseases for which a competent authority has formally recognised an outbreak, or plant pests for which a competent authority has formally acknowledged their presence), the aid may cover the following eligible costs’;

(24) in point (454), the following sentence is added:

‘The promotion activity may be implemented in the internal market and in third countries.’;

(25) point (456) is replaced by the following:

‘(456) The promotion campaign must comply with Regulation (EU) No 1169/2011 of the European Parliament and of the Council (*) and, where appropriate, with specific labelling rules.

(*) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).’;

(26) point (465) is replaced by the following:

‘(465) The promotion activities referred to in point (464)(c) and promotion campaigns referred to in point (464)(d), and in particular promotion activities which are generic in character and for the benefit of all producers of the type of product concerned, must not mention any particular undertaking, brand name or origin. Promotion campaigns referred to in (464)(d) must not be earmarked for products of one or more particular company or companies. The Commission will not declare compatible State aid for promotion which risks endangering sales or denigrates products from other Member States.’;

(27) in point (466)(b), the following sentence is added:

‘The reference to the origin must not be discriminatory, must not aim at encouraging the consumption of the agricultural product on the sole ground of its origin, must respect the general principles of Union law and must not amount to a restriction of the free movement of agricultural products in breach of Article 34 of the Treaty.’;

(28) point (468) is replaced by the following:

‘(468) The aid intensity for promotion campaigns focussed on products covered by quality schemes, referred to in point (464)(d) in conjunction with point (455), may not exceed 50 % of the eligible costs of the campaign or 80 % as regards promotion in third countries. If the sector contributes at least 50 % of the costs, irrespective of the form of the contribution, for example special taxes, the aid intensity may be up to 100 % (*).

(*) Case T-139/09, France v. Commission, ECLI:EU:T:2012:496.’;

(29) the title after point (469) is replaced by the following:

‘Aid for promotion measures referred to in Article 45 of Regulation (EU) No 1308/2013’;

(30) point (470) is replaced by the following:

‘(470) The Commission will consider national payments granted by Member States for the promotion measures referred to in Article 45 of Regulation (EU) No 1308/2013 compatible with the internal market under Article 107(3)(c) of the Treaty if they comply with the common assessment principles of these Guidelines and with the rules on aid for the promotion measures set out in this Section, in particular points (453), second sentence, to (469).’;

(31) point (482) is replaced by the following:

‘(482) Aid for rescuing and restructuring undertakings in difficulty in the agricultural sector will be assessed in accordance with the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (*).

(*) OJ C 249, 31.7.2014, p. 1.’;

(32) point (483) is replaced by the following:

‘(483) However, with regard to aid for rescuing and restructuring undertakings active in the primary agricultural production, instead of the period of 10 years set out in Section 3.6.1, point (71) of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, a five-year period will apply.’;

(33) point (535) is replaced by the following:

‘(535) Investments in installations, the primary purpose of which is electricity production from biomass, are not eligible for aid unless a minimum percentage of the heat energy produced is utilised, to be determined by the Member States.’;

(34) point (537) is replaced by the following:

‘(537) Aid may be granted to private forest holders, municipalities and their associations and to SMEs. In the territories of Azores, Madeira, the Canary islands, the smaller Aegean islands within the meaning of Regulation (EU) No 229/2013 and the French overseas departments, aid may also be granted to undertakings that are not SMEs.’;

(35) point (584) is replaced by the following:

‘(584) Where the aid is financed exclusively from national resources, the eligible costs may include the costs of the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. Where premises are purchased, the eligible costs for premises must be limited to rental costs at market rates. Aid must not be paid in respect of costs incurred after the fifth year after recognition of the producer group or organisation by the competent authority on the basis of its business plan.’;

(36) point (585) is replaced by the following:

‘(585) Aid which is granted as part of the rural development programme or as additional national financing for a rural development measure shall be calculated on the basis of the average marketed production of the group or organisation. In the absence of the data on the marketed production of the group or organisation, the support in the first year shall be calculated on the basis of the average marketed production of the members of the group or organisation over the last five years before the recognition, excluding the highest and the lowest value. It must be paid as a flat rate aid in annual instalments for no more than five years following the date on which the producer group or organisation was recognised by the competent authority on the basis of its business plan, and must be degressive.’;

(37) point (586) is replaced by the following:

‘(586) Where the aid is paid in annual instalments, Member States shall pay the last instalment only after having verified the correct implementation of the business plan.’;

(38) point (587) is replaced by the following:

‘(587) The aid intensity may be up to 100 % of the eligible costs specified in point (584).’;

(39) point (588) is replaced by the following:

‘(588) The total amount of aid must be limited to EUR 500 000.’;

(40) point (594) is replaced by the following:

‘(594) The Commission will consider aid for planting, pruning, thinning and felling of trees and other vegetation in existing forests, the removal of fallen trees, and the planning costs of such measures, aid for the costs of treating and preventing the spreading of pests and tree diseases and aid to make good the damage caused by the pests and tree diseases compatible with the internal market under Article 107(3)(c) of the Treaty if the aid complies with the common assessment principles and the common provisions applicable to Section 2.8 of Part II of these Guidelines, and where the primary objective of such measures is to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape.’;

(41) the following point (594a) is inserted:

‘(594a) Aid for the costs of treating and preventing the spreading of pests and tree diseases and aid to make good the damage caused by the pests and tree diseases may be granted for the following eligible costs:

- (a) preventive and treatment measures, including soil preparation for replanting, and the products, appliances and materials necessary for such measures. Biological, physical and other non-chemical mechanical prevention and treatment methods must be preferred to chemical methods, unless it can be shown that such methods are not sufficient to provide satisfactory control over the disease or pest in question (*);
- (b) loss of stock and restocking costs up to the market value of the stock destroyed on the order of the authorities to fight the disease or pest in question. When calculating the increment loss, the potential increment of the stock destroyed until the normal felling age may be taken into consideration.

(*) This approach is required under the principles of Integrated Pest Management in Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides.’;

(42) point (619) is replaced by the following:

‘(619) Aid must comply with the conditions of aid for advisory services, as laid down in points (288), (289), and (303) to (306)). The service provider will be the body establishing the forest management plan.’;

(43) in point (635), the first sentence is replaced by the following:

‘Unless specified otherwise, the eligible costs for investment aid measures falling within the scope of Chapter 3 of Part II of these Guidelines must be limited to the following costs’;

(44) in point (638), the first sentence is replaced by the following:

‘Unless specified otherwise, the aid intensity must not exceed’;

(45) in point (638)(f), the reference to ‘point (35).’ is replaced by a reference to ‘point (35).31’;

(46) point (686)(b)(iv) is replaced by the following:

‘(iv) the quality scheme must be transparent and ensure complete traceability of agricultural products’;

(47) point (722) is deleted.
