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Communication from the Commission

correcting the Guidelines for State aid in the agricultural and forestry sectors and in rural areas

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Background

The Guidelines for State aid in the agricultural and forestry sectors and in rural areas[1] ('the Guidelines') were adopted on 14 December 2022. The Commission started applying them on 1 January 2023.

All language versions of the Guidelines contain errors, which impact the implementation of those points. Furthermore, the Bulgarian, Czech, French, German, Italian, Romanian and Slovak versions contain additional errors, specific to those language versions. It is therefore appropriate to correct those errors.

In order to avoid confusion as regards the conditions set out in the points of the Guidelines affected by the errors, the correction should apply retroactively. Therefore, the following corrections to the Guidelines take effect retroactively on 1 January 2023.

The Guidelines are corrected as follows:

(1) (does not concern the English language)

(2) (does not concern the English language)

(3) point (22) is replaced by the following:

> '(22). These Guidelines apply to aid to small and medium-sized enterprises (SMEs) and in principle also to large enterprises. However, large enterprises tend to be less affected by market failures than SMEs. Moreover, large enterprises in the agricultural and forestry sectors and in rural areas are more likely to be significant players on the market and, consequently, in specific cases, aid granted to large enterprises may particularly distort competition and trade in the internal market. As aid to large enterprises in the agricultural and forestry sectors and in rural areas and to other large enterprises can potentially cause similar distortions of competition, State aid rules for large enterprises in these Guidelines are harmonised with the general State aid rules, and are subject to the compatibility assessment pursuant to Article 107(3), point (c), of the Treaty as described in Chapter 3 of this Part. As regards aid measures for the livestock sector pursuant to Part II, Section 1.3.3. of these Guidelines, which do not fall within the scope of Regulation (EU) 2021/2115, the Commission maintains its previous policy that large enterprises should be able to finance the costs of thoe measures themselves. Therefore, aid in the livestock sector should remain limited to SMEs.';

[1] Communication from the Commission 'Guidelines for State aid in the agricultural and forestry sectors and in rural areas' (OJ C 485, 21.12.2022, p. 1).

(4) point (33)(3) is replaced by the following:

‘(3) ‘adverse climatic event which can be assimilated to a natural disaster’ means unfavourable weather conditions such as frost, storms and hail, ice, heavy or persistent rain or severe drought which destroy, in the case of agriculture, more than 30 % of the average production calculated on the basis of the preceding three-year or four-year period or of the average production calculated on the basis of the preceding five-year or eight-year period, excluding the highest and the lowest entry; in the case of forestry, more than 20 % of the forestry potential;’;

(5) point (41) is replaced by the following:

‘(41) With the exception of aid pursuant to point (499) of Part II and Chapter 3 of Part II of these Guidelines, these general compatibility conditions apply to all aid covered by these Guidelines, unless derogations are provided for in Sections 3.1 and 3.2 of this Part, due to particular considerations applicable in the agricultural sector.’;

(6) point (55) is corrected as follows:

(a) the introductory phrase is replaced by the following:

‘By way of derogation from points (50) to (53), the following categories of aid are not required to have or are deemed to have an incentive effect:’;

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

‘(q) aid for the costs of treatment and preventing the spreading of pests, tree diseases and invasive alien species and aid to make good the damage caused by such pests, tree diseases and invasive alien species in accordance with Part II, Section 2.8.1.’;

(7) point (71) is replaced by the following:

‘(71) For the purposes of these Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II. Therefore, such aid should be considered necessary.’;

(8) point (84) is replaced by the following:

‘(84) In principle, in order for the aid to be proportionate, the Commission considers that the aid amount should not exceed the eligible costs. That is without prejudice to rules for environmental or other public incentives that are expressly provided for in Part II, Sections 1.3.1.1. and 2.3.’;

(9) (does not concern the English language)

(10) in point (157), point (c), the second paragraph is replaced by the following:

‘The conditions set out in this point (c) do not apply to an investment in an existing installation which affects only energy efficiency or to an investment in the creation of a reservoir or to an investment in the use of recycled water which does not affect a body of ground or surface water;’;

(11) point (144) is replaced by the following:

‘(144) The Commission will consider aid for investments in agricultural holdings linked to primary agricultural production compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Part I, Chapter 3, of these Guidelines, the general condition for investment aid set out in point (143) and the conditions set out in this Section.’

(12) (does not concern the English language)

(13) (does not concern the English language)

(14) in point (176), point (a) is replaced by the following:

‘(a) investments linked to one or more of the specific environmental- and climate-related objectives referred to in point (152) (e), (f) and (g) or investments in favour of processing of agricultural products linked to an improvement in animal welfare;’;

(15) in point (193), point (c) is replaced by the following:

‘(c) producer groups that do not comply with the requirements laid down in Article 67(3) of Regulation (EU) 2021/2115 or producer groups, organisations or associations, the objectives of which are incompatible with Article Article 152(1)(c), Article 156 and Article 161 of Regulation (EU) No 1308/2013.’;

(16) (does not concern the English language)

(17) point (267) is replaced by the following:

‘(267) Aid for investments in primary production and the processing and marketing of organic products is subject to the provisions of Sections 1.1.1.1 and 1.1.1.3 of this Part.’;

(18) point (318) is replaced by the following:

‘(318) In case of operations referred to in point (315)(c) which consist of investments, aid must be limited to the maximum aid intensity of investment aid, as specified in the relevant Section on investment aid.’;

(19) (does not concern the English language)

(20) in point (361), point (b)(i) is replaced by the following:

‘(i) a public programme at Union, national or regional level for the prevention, control or eradication of the animal disease, the plant pest or the invasive alien species concerned;’;

(21) (does not concern the English language)

(22) point (399) is replaced by the following:

> '(399) The aid and any other payments received to compensate for indirect costs referred to in point (393)(b), including payments pursuant to other national or Union measures or insurance policies for damage for which the aid is granted, must not exceed 100 % of the eligible costs.';

(23) (does not concern the English language)

(24) point (444) is replaced by the following:

> '(444) The provisions on eligible costs and on aid intensity laid down in Section 1.3.1.1 are applicable, with the exception of the costs referred to in point (432).'

(25) (does not concern the English language)

(26) (does not concern the English language)

(27) (does not concern the English language).