



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director-General (responsible for Directorates C, D and E)

Brussels,
DDG2/DI/AS/mlh D(2015) 1140217

Dear Ms Horváth,

Thank you for your e-mail of 6 February 2015, in which you seek clarifications regarding various questions in respect of the Young Farmers Scheme (YFS hereafter).

Your first and second question refer to a theoretical example where a young farmer sets up for the first time an agricultural holding as head of the holding as a natural person. Later on, but still within the period during which the farmer is eligible under the YFS, he acquires effective and long-term control in a legal person with additional areas. You are asking whether both the natural and the legal person would be eligible under YFS, or whether one of the applications should take precedence.

According to point (a) of Article 50(2) of Regulation (EU) No 1307/2013, the young farmer payment is only available for "*setting up for the first time an agricultural holding as head of the holding*". This requirement applies both where a young farmer sets up for the first time, and where a young farmer already set up during the five years preceding the first submission of an application for the basic payment.

Based upon point (b) of Article 49(1) of Commission Delegated Regulation (EU) No 639/2013, a legal person is only eligible under the YFS if "*a young farmer within the meaning of Article 50(2) of Regulation (EU) No 1307/2013 exercises effective and long term control over the legal person*". Accordingly, in your example, when the condition of 'first setting up' is verified by the national authorities, it is clear that the acquisition of control in the said legal person does not qualify as "first setting up" for the young farmer because that farmer had earlier already set up as a natural person. Indeed, as the legal person is a different beneficiary than the natural person who is already receiving young farmers support, the eligibility conditions have to be verified separately for that legal person. Therefore, eligibility under YFS cannot be established in the case of the legal person referred to in your email.

It would be different however where a farmer first applied for the young farmers payment as a natural person, then changes the legal status of the personal business into a legal entity and subsequently only the legal entity continues to apply for aid. In that case, as there is continuity between the two beneficiaries, it seems appropriate (in analogy to the second subparagraph of Article 14(2) of Regulation (EU) No 639/2014) that the legal entity continues to receive the young farmers payment for the remainder of the payment period set pursuant to Article 50(5) of Regulation (EU) No 1307/2013 and the payment

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to such farmer for the year in question is granted taking into account Article 50(4) of that Regulation and depending on a Member States decision Articles 50(6) to 50(10) of that Regulation.

It is worth also mentioning that, based upon Article 60 of Regulation (EU) No 1306/2013 (i.e. 'circumvention clause'), "*no advantage provided for under sectorial agricultural legislation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially*". Accordingly, the national authorities shall prevent cases where for example a farmer sets for the 1st time both as a natural person and as head of a legal person with the sole intention to maximize the benefit of the YFS, for example by circumventing the single maximum limit set pursuant to Article 50(9) of Regulation (EU) No 1307/2013.

Your third question about the age requirement under the YFS is largely identical to a former question of the Austrian authorities. Therefore, I invite you to consult CIRCABC, where the Commission's letter to Austria ("*AT - Article 11(2), article 24, article 50(2)(b) ANSWER (Q-2014-05-05)*") is available for all Member States. According to Article 50(2) of Regulation (EU) No 1307/2013, furthermore, the age criterion is to be met by the farmer in the year of the first submission of his application. A young farmer being no more than 40 years old, who sets up his first agricultural business and submits his application to YFS in 2015, could thus remain eligible for YFS up until 2019, provided that Article 50(4) of that Regulation is respected.

With regard to your fourth question about the penalty to be applied in case of over-declaration in the context of the YFS, the general principle is that a farmer should not be subject to penalties for over-declarations in cases where the determined area is above a maximum limit e.g. hectares on which payment may be granted and where, as a consequence, the over-declaration cannot lead to any financial or other advantages. As concerns the YFS, this principle is reflected in Article 18(2) of Regulation (EU) No 640/2014. Referring to your example, if a farmer declares 200 ha but only 180 ha are determined and the single maximum limit established in accordance with Article 50(9) of Regulation (EU) No 1307/2013 is 90 ha, the area declared shall be reduced to that limit (90 ha) and the farmer should not be subject to penalties for over-declaration concerning the payment for young farmers.

The present opinion is provided on the basis of the facts set out in your email of 6 February 2015 and 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 European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,


Joost KORTE