



REPUBLIC OF ESTONIA
MINISTRY OF RURAL AFFAIRS

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Ministry of Rural Affairs of the
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European Commission
Directorate-General for Competition
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Positions for the period 2023+ on State Aid drafts

On the 10th of March 2022, the Advisory Committee and Multilateral meetings on State Aid took place. The Commission informed the participants during those meetings that Member States could submit feedback until 18.03.2022 on the following documents:

- Draft Commission Regulation (EU) .../... of XXX declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union and repealing Commission Regulation (EU) No 702/2014;
- Draft Guidelines on State aid for agriculture, forestry and rural areas.

We submit the following comments:

1. Article 1 (Scope)

1.1 We propose to supplement Article 1(5) of the draft Regulation with a reference to Article 37.

Article 1(5) provides for exceptions in which State aid may be granted also to undertakings in difficulty.

Under Article 37, Natura 2000 private forestland support is granted in Estonia. Under Article 37, State aid is granted on an annual basis per hectare of forestland to compensate beneficiaries for additional costs and income foregone.

Given that in Natura 2000 private forestland economic activity is limited or totally prohibited, the forest owner is generally unable to manage the forest. There is no justification for applying a general rule, according to which the Commission Regulation does not apply to aid granted to undertakings in difficulty.

The amendment will also reduce the administrative burden for public authorities, as control of undertakings in difficulty is resource-intensive. This amendment is in line with the Commission's objective of simplifying State aid rules.

1.2 We propose to supplement Article 1(5) of the draft Regulation with a reference to Article

26.

In cases of subsidized services, it is extremely difficult to make sure the conditions of the general rule are met. Therefore we propose to add a reference to article 26 to article 1(5) to reduce the administrative burden.

2. Article 6 (Incentive effect)

2.1 Article 6(5)(f) incorrectly refers to Article 26(1), we kindly ask to replace it with Article 26(2).

2.2 We propose to supplement Article 6(5) with the following exceptions, in which case the incentive effect requirements do not apply:

2.2.1 We propose to add a new point to Article 6(5), worded as follows:

(...) aid to the livestock sector where the conditions laid down in Article 26(2)(a) and (b) are fulfilled.

2.2.2 We propose to amend Article 6(5)(g) so that investments to prevent damage caused by protected animals are not subject to the incentive effect requirement of Article 6(2). Article 6(2) (g) should read as follows:

(g) aid to make good the damage caused by protected animals, provided that the conditions laid down in Article 28 and the conditions of Article 13(11) (h) are fulfilled.

Article 13(11) (h) provides that in the case of investments to prevent damage caused by protected animals, eligible costs may include the costs of specific preventive actions.

Justification: the application of the incentive effect requirement to Article 13(11) (h) is not justified insofar as the need to introduce preventive measures may become for the farmer quickly apparent and in such a situation the farmer may not be able to make an application to the authorities under Article 6(2). This may be the case, for example, in a situation where there has been no previous damage caused by protected animals in the region.

3. Article 9 (Publication and information)

We do not agree with the rates set out in Article 9(1)(c). The rates set out in the draft will significantly increase the administrative burden for the authorities granting aid.

Article 9(1)(c) of the draft provides that the following amounts shall be published in the Commission's TAM:

- aid for farmers EUR 10 000 (EUR 60 000 in the current regulation)
- aid for other sectors EUR 100 000 (EUR 500 000 in the current regulation)

4. Article 11 (Reporting)

We kindly ask Commission to amend Article 11 with the same principle as the last subparagraph of Article 11(1) of Commission Regulation (EU) No 651/2014.

Article 11 of Commission Regulation (EU) No 651/2014 provides as follows:

'The first subparagraph shall not apply to European territorial cooperation projects referred to in Article 20a, to operational group projects under the European Innovation Partnership for Agricultural Productivity and Sustainability, or to community-led local development projects granted in accordance with Article 19b.'

We therefore propose to supplement Article 11 of the draft text, worded as follows:

‘The first subparagraph shall not apply to European territorial cooperation projects referred to in Articles 50 and 51, to operational group projects under the European Innovation Partnership for Agricultural Productivity and Sustainability, or to community-led local development projects granted in accordance with Article 19b’.

5. Article 13 (Aid for investments on agricultural holdings linked to primary agricultural production)

We kindly ask Commission to amend the wording of Article 13(14)(c) so that, in certain cases, State aid for drainage works may be granted.

Article 13(14)(c) of the draft provides that aid shall not be granted for the following purposes:
Drainage.

The current wording does not take into account the specificities of the Member State, including climatic conditions. In northern Member States irrigation is not an issue, as we have a problem of excess waterlogging and abundance of rainfall, therefore other investments in the reduction of weather-related risks, in particular excess water drainage issues (drainage investments) are topical. MS must remain in a position to make these investments.

Estonia has a humid climate, a low-level relief, a thin natural hydrological network and poorly permeable soils — this causes swamp prone lands.

The one of problems of agricultural soils in Estonia is the depreciation of drainage systems and the associated reduction in the use of agricultural soils.

The risk of soil compaction due to waterlogging is also high, and the distribution of rainfall during the vegetation period is uneven.

The vast majority of waterlogged land suitable for agricultural production has already been drained several decades ago (no new drainage systems are in place), but existing drainage systems require continuous investment to ensure farm production security, climate continuity and environmental protection objectives.

In the context of climate change, the number of rainy days in Estonia and the precipitation in winter will increase, so pressure on drainage systems will increase.

The increase in extreme precipitation and overall precipitation also causes plant nutrients and humus substances to reach watercourses and standing water bodies. Modernising drainage systems helps to mitigate these effects.

Wetlands and peat soils make an important contribution to achieving climate objectives, which is why we support the implementation of a drainage ban on their land but not on mineral soils.

6. Article 20 (Aid for knowledge exchange and information actions)

6.1 We propose to change the wording of the second subparagraph of Article 20(2).

That provision provides that: *“Aid shall cover vocational training and skills acquisition actions, including training courses, workshops and coaching, demonstration activities and information actions.”.*

“Aid may also cover short-term farm management exchanges and farm visits”.

We kindly ask the Commission to amend the wording as follows:

Aid may also cover short-term farm management (or other employees chosen by management) exchanges and ~~farm~~ visits to various relevant enterprises and organizations (including research organizations).

The aim of the proposal would be to expand the possibilities for target groups and to ensure better consistency with the more relaxed requirements set out in the EU Strategic Plan Regulation (Regulation (EU) 2021/2015 does not include such restrictions). The proposed amendment would also be in line with facilitating the general AKIS approach in the CAP, as it would enable more diverse contacts and knowledge flow between the different AKIS players (farms, research and educational institutions, etc).

6.2 We would like to ask clarification whether the definition of “Bodies providing knowledge exchange and information actions” in Article 20(6) is the same as that of “research and knowledge-dissemination organization” in Article 2(49).

7. Article 23 (Aid for promotion measures in favour of agricultural products)

7.1 We would like to ask clarification to article 23(2)(b) why the provision regarding publication of general information constitutes as State aid. For e.g. if there is a promotion informing the public about the advantages of eating cereals and no company/producer is specifically named.

7.2 The link between Articles 23(3) and 23(5a) of the draft is not clear. It is not understandable from the wording of the draft, in which case it is permissible to refer to a specific undertaking in the promotional activities.

The first paragraph of article 23(3) states that it not allowed to “refer to any particular undertaking, brand name or origin”. However according to point (5)(a) factual information about beneficiaries is allowed as long it is neutral and all concerned have equal opportunities to be represented in the publication;

We agree that reference to specific undertakings should be allowed if all the beneficiaries concerned have equal opportunities to present themselves.

8. Article 24 (Aid to make good damage caused by adverse climatic events which can be assimilated to a natural disaster)

We propose to remove Article 24(9) from the draft. Under that provision, the aid granted is reduced by 50 % if the beneficiary has not taken out insurance covering.

9. Article 25 (Aid to cover the costs of the prevention, control and eradication of animal diseases and plant pests and aid to make good the damage caused by animal diseases or plant pests)

We propose to remove Article 25(4)(a) that stipulates the 30% threshold for damage laid down in Article 25(4)(a) of the draft **or alternatively** to lower the threshold to 20%.

The threshold is mandatory for compensation for damage caused by all plant pests and for certain animal diseases. Plant pest spread also in situations where the farmer has followed all care responsibilities. For plant pests and animal diseases, early detection is of utter importance.

We agree that a threshold might be necessary, but the proposed threshold is too high; this might contribute to undertakings, whose damages do not reach the 30% threshold, not notifying authorities about dangerous plant pests, which might contribute to spreading and adaption of dangerous plant pests and damages to other farmers.

10. Article 28 (Aid to make good the damage caused by protected animals)

We would like to thank the Commission for adding this article. There are no further proposals for Article 28, however a proposal is made under Article 6.

11. Article 41 (Aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector)

There are no further proposals. We very much welcome the wording of Article 41(7) of the draft, which allows aid for land improvement up to 100% to be granted on forestland.

In the current regulation, there was no reasonable basis for carrying out land improvement work on forestland, because the aid rate in the corresponding article was very low.

So far, Estonia has implemented Commission Regulation (EU) No 1407/2013 instead of ABER. As it is common in Estonia that one drainage systems contains agricultural land and forestland, it has been an administrative burden for public authorities and difficult to understand for private forest owners.

12. Article 46 (Aid for basic services and village renewal in rural areas)

12.1 We plan to use intervention 8.2 “Enterprise environmental development”. The Commission is invited to clarify whether the rate of EUR 2 million referred to in Article 46(3)(a) applies only for the purposes of point (a) or whether this rate also applies to the infrastructure referred to in Article 46(3)(b) and (c).

12.2 Article 46(3)(2) of the draft Regulation sets the limit for support for small-scale infrastructure at EUR 2 million. We kindly ask the Commission to rise the threshold of small-scale infrastructure to EUR 4 million. The strategic plan Regulation (EU) 2021/2115 does not stipulate EUR 2 million threshold.

13. Article 47 (*Business start-up aid for non-agricultural activities in rural areas*)

We kindly ask you to replace the incorrect reference to paragraph 4 in Article 47(4) by a reference to paragraph 3. Paragraph 4 text “Where paragraph 4(a)...” should be replaced with “Where paragraph 3(a)...”.

14. Article 50 (Aid for costs incurred by SMEs participating in CLLD or EIP Operational Group projects)

We would like an explanation why the Commission treats the costs referred to in Article 50(2) as State aid. The difference between Articles 50 and 51 is also not clear from the draft.

15. Article 51 (Limited amounts of aid to SMEs benefitting from CLLD or EIP Operational Group projects)

Article 51(2) sets the total amount for EIP Operational Group projects at EUR 350 000. We kindly ask you to explain whether this means that projects that are more expensive cannot be carried out? Can different type of aid be combined in projects? Are the restrictions intended for a project or an economic operator?

16. Annex II (Information regarding State Aid exempt under the conditions of this Regulation as provided for in Article 9, Paragraph 1)

We propose to use the same wording as in Annex II of Regulation (EU) 651/2014 in Annex II of the draft Regulation.

The first part of Annex II of the draft regulation states that the budget of the measure, namely the total amount of the aid scheme, must be notified to the Commission.

By contrast, the first part of Annex II to Commission Regulation (EU) No 651/2014 has different wordings and requires the presentation of the annual budget.

17. Proposal related to the forestry chapter of the draft regulation (support for forest management).

Strategic Plan Regulation (EU) 2021/2115 allows for aid for, inter alia, forest maintenance. There is no appropriate basis for this in the draft Commission State aid Regulation. Estonia is planning an intervention in the framework of the Strategic Plan, in which private forest owners will receive support to carry out maintenance logging (lighting and thinning) in their private forests. If the wood quality is improved, it can be used to produce climate-friendly wood-based products, increasingly replacing fossil materials such as concrete and metal.

We ask the Commission to supplement the draft in such a way that the intervention resulting from Regulation (EU) 2021/2115 of the Strategic Plan provides the basis for the Commission's State aid rules.

18. Draft State aid guidelines (Aid for knowledge transfer and information actions in rural areas)

Section 3.6 of the current State Aid Guidelines (points 669-676) allows for aid for knowledge transfer in rural areas. This section, has been removed from the draft guidelines. Estonia provided aid under this section for the training of advisors.

Regulation (EU) 2021/2115 of the Strategic Plan provides assistance for the training of advisors. We ask the Commission to amend the draft of State Aid Guidelines, along the lines of the current State Aid Guidelines, so that the training of advisors can be supported in the period 2023-2027.

19. Part II, paragraph 1.1.11 (point 311) of the draft guidelines

According to the Guidelines (point 311), aid to promote cooperation in the agricultural sector can only be granted on condition that only the agricultural sector can benefit from the cooperation. We kindly ask you to explain the reasoning of this request.

20. Translation proposals

The Estonian translation of non-productive investment (in Article 26(2)) should be harmonized in the draft documents. Currently the translations in the Guidelines (point 42) and in the Regulation (Article 2(37)) are different from each other.

Yours sincerely,

(signed digitally)

Marko Groban

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Acting as Secretary General