



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT
Directorate I. Agricultural legislation and procedures
Director

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Subject: Active farmer-small farmers-CZ

Ref: CHAP (2015) 2157-EU PILOT 7976/2015-Ares(2016)4432896

Dear Sir,

Thank you for your letter of 29 June 2016 and your emails of 15 and 19 August 2016. We understand that there was a problem regarding your letter of June being sent in reply to our pre-closure letter. Without a response from your side within the deadline, your file has been closed for administrative reasons and after a positive assessment of the Czech national reply by our services under EU PILOT 7976/2015. Nevertheless, we of course take due note and have examined your new arguments but I am afraid that we cannot open a new file for the following reasons:

Our letter of 31 May 2016 explains in detail our assessment of the national requirement at stake in your complaint and the results of our contacts with the Czech authorities. Your new arguments do not alter our reasoning as you confirm that there is no formal or technical obstacle to meeting the Czech national criteria by small farmers and you do not contest that the requirements contain no discriminatory restriction.

You present new figures regarding the decline in the number of aid applications and you consider that this phenomenon is in contradiction with the objectives of rural development and the Common Agricultural Policy (CAP) in general. You consider that our previous letters give only a partial response to your questions and do "not go to the heart of the matter". Our letter of May 2016 states that there are no elements in your file showing that the requirement of agricultural entrepreneur is a legal obstacle to apply for EU agricultural support. Registration is open for any farmers and the administrative and financial burden represented by the registration cannot be considered as disproportionate. It has also been clarified that profit-orientation with regard to the agricultural activity

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carried out by the applicant is not a pre-requisite of the registration. Farmers fulfilling the conditions of Regulation (EU) No 1307/2013 and the conditions of the acts adopted on this basis are not therefore excluded early on via the obligation to register as an agricultural entrepreneur under the Czech law. The national obligation to register does not impose "substantial" additional eligibility conditions for the granting of direct payments. The national authorities explained that farmers fulfilling the conditions of Regulation (EU) No 1307/2013 cannot be excluded from the possibility of registering as agricultural entrepreneurs. On that basis, the national authorities clarified that small farmers are not excluded ahead of applying EU legislation by the definition of agricultural entrepreneur in the Agricultural Act.

It appears that the farmer who is registered as an agricultural entrepreneur is subject to general obligations of self-employed workers such as keeping tax records and being registered at a health insurance company. These national obligations cannot be seen as in contradiction with EU rules and fall principally under national competence. It is therefore difficult to consider, on the basis of the information available, that this national requirement is against the Union rules.

We note your argument relating to the alleged administrative burden of the requirement to be an agricultural entrepreneur (even if there is no legal obstacle to register as agricultural entrepreneur) and the implications, following your analysis, on the number of aid applications. You also consider that this requirement creates a disconnection between the actual situation of the farmers who do not farm commercially and the legal situation (if they register as agricultural entrepreneur). We note however that there are no elements showing a conflict between EU law and Czech legislation.

Please note that correspondence can be investigated as a complaint by the Commission if it relates to a possible infringement of EU law by a Member State¹. In addition, we cannot explore issues relating to national competence as the division of competence between the EU level and the national level must be respected. It might be useful to recall that since the start of the arrangements governing the functioning of the CAP, the Member States have been responsible for executing the rules of the CAP. As a consequence of their responsibility to protect the financial interests of the EU budget, it is for the Member States to take all the measures necessary to satisfy themselves that subsidies are granted correctly and to prevent and deal with irregularities². As a result of this, disputes relating to the administrative handling individual cases fall under the consideration of national authorities. The Commission cannot substitute its own assessment of individual situations for that of national authorities nor can it intervene in the administrative proceedings of these cases.

As regards your reference to a contradiction with the objective of rural development, there are no elements in your file showing a contradiction between the national legislation and the EU legislation and therefore supporting this argument. We cannot open investigations on this basis.

¹ http://ec.europa.eu/atwork/applying-eu-law/make_a_complaint_cs.htm

² Article 58 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, OJ L 347, 20.12.2013, p. 549–607).

Given the nature of your claim which relates principally to the national legislation and the alleged burden created for farmers, considering its alleged disconnection between situations on the ground and legal requirement, and given our assessment of the compatibility of the Czech national legislation with EU legislation, I would advise you to contact your national authorities.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'N. Sauze-Vandevyver', with a long horizontal flourish extending to the right.

Nathalie SAUZE-VANDEVYVER