



30.1.2015

## NOTICE TO MEMBERS

**Subject: Petition No 2130/2013 by Leandro Espana Balbas (Spanish) on transfer of farmers' rights**

### 1. Summary of petition

The petitioner is complaining about the current status of the farmers who acquired new farms and do not get their rights to subsidies automatically transferred. According to him there have been many cases when the ownership of the farm changed but not the rights and thus the former owner continues to claim subsidies. He points out that such practice is unfair since the subsidies are intended precisely to offset the low direct profitability of farms. He believes that the current legislation is unfair and asks the EP to help to link the subsidies and the rights to the person who actually owns the farm.

### 2. Admissibility

Declared admissible on 5 September 2014. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 30 January 2015

#### The Commission's observations

First of all, in order to receive area related direct payments, a farmer has to have agricultural land at his/her disposal and to exercise an agricultural activity, as defined by the EU legislation, on such a land. The farmer also has to respect the conditions established by the EU legislation, including the need to hold payment entitlements under the single payment scheme (until 2014) or under the basic payment scheme (from 2015). The payment entitlements system is completely decoupled from the production meaning they can be

activated on any eligible hectare (there is no requirement to activate entitlements only on the hectare on the basis of which it has been allocated).

It seems that the petitioner considers that certain farmers do not fulfil the necessary conditions to benefit from the aid. In particular, it is claimed that certain farmers do not exercise an agricultural activity in the area for which they receive support. These allegations should be dealt with by the national competent authorities. Since the start of the arrangements governing the functioning of the Common Agricultural Policy (CAP), the Member States have been responsible for executing the rules of the CAP including payments to beneficiaries. 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 ensure that subsidies are granted correctly and to prevent and deal with irregularities<sup>1</sup>. As a result of this, disputes relating to the administrative handling of an individual case fall under the consideration of national authorities.

In addition to the above conditions, from 1 January 2015, any farmer receiving direct payments will have to respect the active farmer provisions, which were introduced in the last CAP reform to better target direct support by excluding those persons who do not (or only to a marginal extent) carry out agricultural activities. In order to be allocated payment entitlements and in order to be granted direct payments, the farmer must be active in the meaning of Article 9 of Regulation (EU) No 1307/2013<sup>2</sup>. Article 9(3) of that Regulation provides the possibility for Member States to further exclude natural or legal persons, or groups of natural or legal persons from direct support.

Finally, as regards the possibility for new entrants to receive payment entitlements, it is worth noting that from 2015, pursuant to Article 30(6) of Regulation (EU) No 1307/2013, Member States shall use their national or regional reserves to allocate payment entitlements, as a matter of priority, to young farmers and to farmers commencing their agricultural activity. This category of farmers is further defined in Article 30(11) of Regulation (EU) No 1307/2013 and in Article 28(4) of Regulation (EU) No 639/2014<sup>3</sup>.

### Conclusion

The Commission sees no ground to intervene on behalf of the petitioner.

The petitioner is advised to contact his national authorities concerning the details of the implementation of direct payment schemes in Spain.

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<sup>1</sup> See Article 9 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the Common Agricultural Policy, OJ L 209, 11.8.2005, p 1 (From 1/01/2014: 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).

<sup>2</sup> Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, OJ L 347, 20.12.2013, p. 0608 - 0670.

<sup>3</sup> Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X of that Regulation, OJ L 181, 20.6.2014, p. 01- 047.

