Briefing note: Changes to State aid guidelines on European Union Member States financing for compensation and prevention measures

In November 2018, the European Commission amended its Guidelines for State aid in the agriculture sector\(^1\), enabling full compensation of damages and protection measures related to large carnivores. Until this change, while the direct costs for an animal killed or equipment destroyed could be compensated by a Member State, compensation for indirect costs such as treatment costs of wounded animals could only be covered up to 80%. Additionally Member States could only finance investments into protection measures up to 80%, except in case of collective investments (although such measures could be funded up to 100% in the framework of Rural Development Programmes).

This situation had been criticised by managing authorities and stakeholders as disadvantaging farmers experiencing depredation of livestock\(^2\). The European Commission therefore decided to amend the State aid guidelines to permit up to 100% financing of compensation for indirect costs as well as for supporting prevention measures with state budgets.

In February 2019, the European Commissioner for the Environment Maritime Affairs and Fisheries, Karmenu Vella and the European Commissioner for Agriculture and Rural Development, Phil Hogan wrote a joint-letter\(^3\) to the Ministers for the Environment and Agriculture in the EU Member States. This highlighted inter alia the available financial support for coexistence with large carnivores under the European Agricultural Fund for Rural Development (EAFRD) and under the EU’s environment and climate programme (LIFE), as well as the new opportunities to support livestock managers experiencing depredation through State aids.

Support for damage prevention measures

The Rural development programmes, under the EU Common Agricultural Policy, can provide support for protection measures that help eliminate or reduce the risk of damage from large carnivores as non-productive investments up to 100%. Such protective measures can include installation of electrified fences; training of shepherds on best practices in protecting livestock against wild animals; purchase of livestock guarding dogs; construction of shelters for shepherds to stay near to herds; as well as studies to analyse methods of extensive animal rearing in the presence of carnivores. These are financed as one-off payments covering costs of the materials, trainings or studies. Furthermore, maintenance costs covering additional labour costs for farmers to check and maintain protective fences or to move fences, as well as for feed and veterinary costs for the livestock guarding dogs may be covered by agri-environment-climate payments\(^4\). These would be paid as annual payments over a set time period (normally 5 years). Such measures are not available everywhere and depend on the priorities set at a

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4 See the EU Platform for Coexistence between People and Large Carnivores webpage on Rural Development Programmes for examples: [http://ec.europa.eu/environment/nature/conservation/species/carnivores/case_studies_sub_rural_development_programmes.html](http://ec.europa.eu/environment/nature/conservation/species/carnivores/case_studies_sub_rural_development_programmes.html)
national or regional level. The procedures to apply for financing from the Rural Development Programmes also vary between countries and regions. Similar measures can also be funded entirely by national or regional governments if they follow State Aid rules (see below).

**State aid**

State aid is defined as “any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU”). The Treaty of the Functioning of the European Union (TFEU) in general, prohibits State aid. However, under certain circumstances it is allowed to address specific market failures. Exceptions for the specific situation of land use management are described in the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020.

According to the guidelines, allowable financial support includes the state component of rural development support i.e. co-financing for the rural development programmes (Pillar 2 of the Common Agricultural Policy (CAP), supported under the European Agricultural Fund for Rural Development (EAFRD)). For the above-described measures included in the rural development programmes, approval of the programme includes approval of the co-financing of the measures within it, so no additional measures for State aid compliance are needed.

Protection measures can be funded either through the EAFRD (see above) or through State aid or through a mixture of the two. Compensation for damages caused by large carnivores is not possible under rural development. It is only possible as pure State aid. In these cases, the Member States must submit a “notification” to the Commission, describing the intended aid scheme and must wait for a Commission approval before putting the measures in place.

Member States may also make use of the specific “de minimis” aid regime for the agricultural sector, exempting aids under certain thresholds from the notification requirement. In February 2019 the Commission increased both the maximum aid amount per single undertaking (from 15,000 euros to 20,000 euros over any period of 3 fiscal years) and the national caps (from 1% to 1.5% of the annual output). Higher thresholds may be applied if certain additional conditions are fulfilled (sector cap and use of national central register).

When paying compensation, according to the guidelines Member States must also ensure that farmers are incentivised to minimise risk and take "reasonable prevention measures, such as safety fences where possible, livestock guarding dogs, which are proportionate to the risk of damage caused by protected animals in the area concerned". Furthermore, the guidelines require a direct causal link between the damage suffered and the behaviour of the protected animal to be established by the Member State.

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5 See EU Platform for Coexistence between People and Large Carnivores webpage on Rural Development Programmes for overview of where such measures are in place: http://ec.europa.eu/environment/nature/conservation/species/carnivores/pdf/145_Case%20studies%20and%20RD_update.pdf
6 See ENRD country data for contact points in each country: https://enrd.ec.europa.eu/contact/country-data_en
Recent changes to the measures to finance compensation and prevention measures

The 2018 amendment\(^1\) to the *Guidelines for State aid in the agricultural sector* does not change the measures included in the rural development programmes co-financed under the EAFRD. It only affects Member States’ abilities to finance compensation and prevention measures under their own budgets. The changes are summarized in Table 1. The extract from the guidelines with the changes marked is shown in Box 1.

### Table 1. Impact of amendment to Guidelines for State aid in the agricultural sector.

<table>
<thead>
<tr>
<th>Compensation covers</th>
<th>Funding source</th>
<th>Permitted % support until 2018 amendment</th>
<th>Permitted % support after 2018 amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation for direct costs</td>
<td>Damage for animals killed, plants destroyed. Material damage to: farm equipment, machinery and farm buildings and stocks.</td>
<td>Member State financing only (national / regional government) under de minimis or through a State aid notification.</td>
<td>100% of market value of animals or plants. Repair cost or economic value of the affected asset before the event that caused the damage.</td>
</tr>
<tr>
<td>Compensation for indirect costs</td>
<td>Veterinary costs from the treatment of wounded animals Labour costs related to the search for missing animals.</td>
<td>Member State financing only (national / regional government).</td>
<td>80% of total costs.</td>
</tr>
<tr>
<td>Prevention measures</td>
<td>Costs associated with prevention measures such as fencing, livestock guarding dogs or shepherding.</td>
<td>EAFRD co-financed with national / regional budgets. Or Member state financing only (national / regional government).</td>
<td>100% if under non-productive investment measure or agri-environment-climate measures within Rural Development Programmes (co-funded by EAFRD). 100% if under de-minimis. 80% if notified under State aid – 100% for collective investments.</td>
</tr>
</tbody>
</table>

### Box 1. Extract of the guidance with amendments marked.

(underlined = addition; crossed-out = subtraction)

**Protection measures:** Aid for investment in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production [...]

(143) The investment must pursue at least one of the following objectives:

(e) the restoration of agricultural production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests, protected animals and the prevention and risk mitigation of damage caused by those before-mentioned events and factors; [...]

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As regards investment with preventive objectives in point (143)(e), the maximum aid intensity must not exceed 80%. However, it may be increased up to 100% if the investment is carried out collectively by more than one beneficiary or if the objective is to prevent damage caused by protected animals.

**Compensation measures:** Aid to compensate for the damage caused by protected animals

Damage to equipment, infrastructure, animals and plants caused by protected animals is a growing problem. The success of Union conservation policy depends partly on the effective management of conflicts between protected animals and farmers. As a consequence, and in respect of the principle of proportionality, the Commission will consider aid to compensate for the damage caused by protected animals compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions. […]

**Aid intensity**

- **(401)** Compensation may be granted up to 100% of the eligible costs.
- **(402)** Compensation for indirect costs must be proportionate to the direct costs and must not exceed 80% of the total indirect eligible costs.
- **(403)** The aid and any other payments received to compensate for the damage, including payments under other national or Union measures or insurance policies for the damage receiving aid, must be limited to 100% of the direct eligible costs and 80% of the indirect eligible costs.

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