Simplification proposal of the payment for YOUNG FARMER

Expert group for direct payments
Brussels – 24 September 2015

European Commission
DG Agriculture and Rural Development
Unit D1 – Silvia REZESSY
Young farmer simplification proposal

- The text of the proposed amendment
  - Sent to delegates on 30 August 2015
  - Discussed at the expert group meeting on 15 September 2015
  - Comments in writing from 5 Member States

- Points for clarification
  - If using the derogation on joint control YF/nonYF, which will be the applicable rules to determine the date of setting up?
  - What to do with 2015 (or 2016) beneficiaries who would no longer qualify for YFP if a MS changes the rules for joint control of legal bodies?
POINT 1: Determining the date of setting up under the derogation to joint control

- REMINDER: only the first setting up is supported (Regulation 1307/2013)

- For the years before using the derogation the rules that were in place at that time apply for the purpose of establishing the date of the first setting up
  - Relevant for the 5 year count and for establishing first setting up

- A young person sets up in joint control legal body YF/nonYF in 2014 and takes over as sole control over that legal body in 2016 – his set-up date is 2014 (not 2016).

- Different cases (next slide), e.g. in 2016 a young person who exercised joint control in the past:
  - Sets-up a new holding with a sole control (no continuity, not his first setting up)
  - Obtains sole control over his current holding (continuity)
Determining the date of setting up under the derogation to joint control 1/2

2016: MS decision to only recognise SOLE CONTROL

- Son sets up a new holding as legal person with sole control - NOT ELIGIBLE
  - New holding, no continuity between the old and new
  - Not the first set-up for son

- The existing legal body changes structure to sole control of the son
  - Same legal body, continuity
  - Set-up date is 2014
  - ELIGIBLE (3\textsuperscript{rd} year)

<table>
<thead>
<tr>
<th>2014</th>
<th>2015</th>
<th>2016</th>
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<tbody>
<tr>
<td>Young person sets up in a legal body with joint control YF/non-YF (father + son)</td>
<td>The joint control legal body (father + son) applies for YFP and receives it</td>
<td>The joint control legal body (father + son) does not apply for YFP</td>
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</tbody>
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- Son sets up a new holding as legal person with sole control - NOT ELIGIBLE
  - New holding, no continuity between the old and new
  - Not the first set-up for son

- The existing legal body changes structure to sole control of the son
  - Same legal body, continuity
  - Set-up date is 2014
  - ELIGIBLE (3\textsuperscript{rd} year)
Determining the date of setting up under the derogation to joint control 2/2

NEW YFP APPLICANTS – JOINT CONTROL 2016

2016: MS decision to only recognise SOLE CONTROL

2014 2015 2016 2018

Young person establishes in a legal body with joint control YF/non-YF (father + son) - NOT ELIGIBLE, not set up in the sense of Regulation (EU) 1307/2013

Son sets up a new holding as legal person with sole control
- New holding, no continuity between the old and new
- ELIGIBLE with set-up date in 2018

The existing legal body changes structure to sole control of the son
- Same legal body, continuity
- ELIGIBLE with set-up date in 2018
Proposed additions to the text to clarify the setting up date

Where Member States use the derogation laid down in the second subparagraph of Article 49(1)b of Regulation 639/2014, for determining the date of "setting up" referred to in Article 50(2)(a) and (5) of Regulation no 1307/2013, the period in which the young farmer exercised joint control together with other farmers pursuant to the first subparagraph of Article 49(1)b of Regulation 639/2014 in the calendar years preceding the calendar year as of which the derogation is applied shall be taken into account.

Legal disclaimer: This working text has been prepared by DG AGRI staff in order to facilitate the discussion in the Expert group for direct payments. It has not yet been subject of an inter-service consultation nor revised by the Legal Service.
POINT 2: 2015 (or 2016) beneficiaries no longer eligible for YFP

- MS who decide to derogate on joint control YF/nonYF are entrusted with the decision on how to treat the beneficiaries who are already in the system but who continue being joint control YF/nonYF.

- MS should be prepared to justify any such treatment
  - Subsidiarity and leaving more discretion to MS to adapt the CAP principles to their particular needs.
  - Based on the information at hand and under the usual legal disclaimer, it is the opinion of the Commission services that any discontinuation of accepting such partnerships cannot as such invoke legitimate expectations at EU level because under the YFP scheme farmers do not sign any commitment and the financial contribution to the YF support is not targeting business support (e.g. linked to actual investments), and is an annual payment.

- MS need to undertake their own legal analysis to establish if in their particular national context there may be specific conditions that may give rise to legitimate expectations.
Proposed additions to the text to clarify the treatment of 2015 (or 2016) beneficiaries no longer eligible

Where Member States use the derogation laid down in the second subparagraph of Article 49(1)b, they shall decide on the application of that derogation to those legal persons or groups of natural persons which have already received payment as young farmers in the claim years preceding the claim year as of which the derogation is used.

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Thank you for your attention!