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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	The use of EAFRD-funded investments - <i>Information from Lithuania, supported by Bulgaria, Estonia, Latvia and Spain.</i>

Delegations will find in the Annex a note from Lithuania, supported by Bulgaria, Estonia, Latvia and Spain on the above-mentioned subject, to be dealt with under "Any other business" at the Council (Agriculture and Fisheries) on 23 September 2024.

The use of EAFRD-funded investments

Information from Lithuania, supported by Bulgaria, Estonia, Latvia and Spain

The final report of the Strategic Dialogue, the so-called Simplification Regulation¹, as well as the Council Conclusions on a long-term vision for the EU's rural areas recognise farmer's fundamental role in ensuring vitality of rural areas, foremost in economic terms, but also in environmental and social terms. This gives hope to farmers, bringing them back to a spotlight and making their voices heard again. Considering recent positive developments in the CAP and momentum of building the mutual trust, more could be done by streamlining the design and an administration of rural development measures. Governance at EU level should in all cases pay special attention to the need to develop smart administrative solutions and limit unnecessary bureaucratic burden.

One of the considerable obstacles we are observing through years of implementation is the **restriction to use the machinery or equipment acquired with the EAFRD support exclusively for the goals and activities foreseen in the investment project**. Though EU basic acts do not set a direct restriction to go beyond the limits of the original project, such prohibition is implied by secondary legislation, audit reports, opinion of the European Commission, which has been repeatedly stated in their communication and, in general, confirmed by the judgement of General Court².

The new delivery model, launched in 2023, introduced result-oriented approach and replaced the previous model that was based on the conformity clearance (detailed assessment of eligibility). We are convinced that the new delivery model calls for a new approach towards the administration of investment projects in rural development, which means moving away from the overarching control by the authorities and their "top-down" approach that often limits farmers' decisions on how to manage their own farm.

¹ Regulation (EU) 2024/1468 of the European Parliament and of the Council of 14 May 2024

² General Court judgment of January 22, 2020 (T-19/18 Lithuania v the Commission):

"(206) However, in order for the expenditure related to the purchased items to be considered eligible, it is not sufficient that 100% of the project is carried out using the items purchased under an EAFRD-funded project; it is also necessary to ensure that 100% of these items are used for nothing else but for the implementation of the project “.

Farmers should be allowed to use machinery, equipment or any other item acquired with the EAFRD support in more efficient and rational ways, without fearing to fall under the sanctions. For example, farmer invested into equipment necessary for cultivation of one type of crops (e.g. vegetables) but cannot use it for other type of crops (e.g. cereals) in his own farm because it was not an initial goal of the investment. And it is not about failing to reach the initial targets. It is about doing something extra, which in general terms would only improve the viability of the farm, strengthen resilience to crises and reduce carbon print.

Another example - partly EU-funded tractor cannot be used to provide agricultural services to another farmer or to remove the snow off the roads in their rural community because these activities are outside the modernisation of farmers agricultural holding. For a farm, especially a mixed or family-owned one, where farming is a lifestyle, it is very difficult, if not impossible, to draw clear boundaries between those activities and operations. In these cases, restriction to use the machinery for one or another activity, depending on what is written in the investment project, might sound like an irrational control clause.

We strongly believe that in order to achieve broader CAP objectives, i.e. resilience, competitiveness and sustainability of farms, prosperity of rural areas as well as generational renewal, we must abandon strict control and penalty-based EU support administration algorithms, such as prohibition to use EAFRD-funded investments beyond the boundaries of an original project, and move towards more holistic approach, first of all leaving such decisions to the discretion of the farmer as the owner.

The General Court case is not an obstacle to do this. The judgment was based on the existing legislation. It just proved how inflexible the rules are. It is the right time to change the legislation and the approach.

We call on the Commission to address the issue as soon as possible.