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Ref. Ares(2013)1266460 - 23/05/2013



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels,
TF/Avdz/(2013) 1128891

Concerning: Your letter of 3 May 2013 on the annulment of the Danish river basin management plans and consequences for the implementation of the compensation scheme for mandatory buffer zones

Dear Mr Bonde,

I refer to your letter of 3 May 2013 (Ares(2013)1019697) in which you inform DG AGRI of the latest developments concerning the Danish river basin management plans¹ and ask about the possibility of paying compensation in advance to farmers under measure 213 before the adoption of the new river basin management plans.

In reply to your question, please note that the existence of valid river basin management plans is a precondition for paying compensation to farmers under measure 213. This clearly follows from the relevant provisions of the regulatory framework. In particular, according to Article 26a of Regulation (EC) No 1974/2006², support pursuant to article 38(1) of Regulation (EC) No 1698/2005³ shall be provided only for cost incurred and income foregone resulting from requirements that are in accordance with the programmes of measures of the river basin management plans. Furthermore, Article 34 (1) of the same Regulation specifies that agricultural areas are eligible for payments only 'if a relevant river basin management plan is established and implemented in those areas'.

Accordingly, compensation paid to farmers under measure 213 can be considered as being in compliance with Regulation (EC) No 1698/2005 and Regulation (EC) No 1974/2006 only if paid after the river basin management plans have been adopted.

Given the above, I regret to inform you that it will not be possible to pay compensation in advance to farmers as envisaged in your letter.

**Ministeriet for Fødevarer, Landbrug og Fiskeri
NaturErhvervsstyrelsen
Center for Arealtilskud – Bæredygtighed
Att.: Enhedschef Steen BONDE
Nyropsgade 30
1780 KØBENHAVN V
DANMARK**

¹ An original letter on the annulment of the Danish river basin management plans was submitted by the Danish authorities on 15 January 2013 (Ares (2013)104770) and a reply was sent to the Danish authorities on 26 February 2013 (Ares(2013)253663).

² OJ L 368, 23.12.2006, 15–73 (as amended).

³ OJ L 277, 21.10.2005, 1–40.

I draw your attention to the fact that any payments made outside the framework of Regulation (EC) No 1698/2005 would have to be in full compliance with relevant state aid rules and would be under the sole responsibility of the Member State.

The present opinion is provided on the basis of the facts as set out in your letter of 3 May 2013 and on the understanding that in the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'JP' with a stylized flourish underneath.

Jerzy PLEWA