



European  
Commission



# Durability of Investments and State Aid



Éva Dimovné Keresztes\*  
DG Competition  
European Commission  
Unit H.6 (State aid in the agricultural and  
fisheries sectors)

\* The views expressed are those of the author and may not be regarded as stating the official position of the European Commission.



# STATE AID RULES AND THE CAP STRATEGIC PLANS (EAFRD)

Article 42 TFEU: "The provisions of the Chapter relating to rules on competition shall apply to **production of and trade in agricultural products** only to the extent determined by the European Parliament and the Council"

SCOPE: **Primary production, processing and marketing** of agricultural products (Annex I TFEU)

EU co-legislator's approach (past and present)

- Establish that State aid rules shall apply to CAP support schemes
- Provide for broad derogations: Article 145 and 146 of the CAP Strategic Plans Regulation (EU) 2021/2115



## CAP STRATEGIC PLANS (EAFRD) v. application of State aid rules

Support granted as part of the national programs of the CAP Strategic Plans (EAFRD) pursuant to and in accordance with the CAP SP Regulation				Pure national State aid measures (outside of the CAP SPs/EAFRD programmes) or aid under other EU Funds (e.g. Cohesion Fund)
	EAFRD co-financing part	MS co-financing part	Additional MS funding (top ups)	
<b>Within Article 42 TFEU</b>	State aid (SA) rules <b>do not</b> apply	SA rules <b>do not</b> apply	SA rules <b>do not</b> apply	SA rules <b>do</b> apply
<b>Outside Article 42 TFEU</b>	SA rules <b>do</b> apply	SA rules <b>do</b> apply	SA rules <b>do</b> apply	SA rules <b>do</b> apply



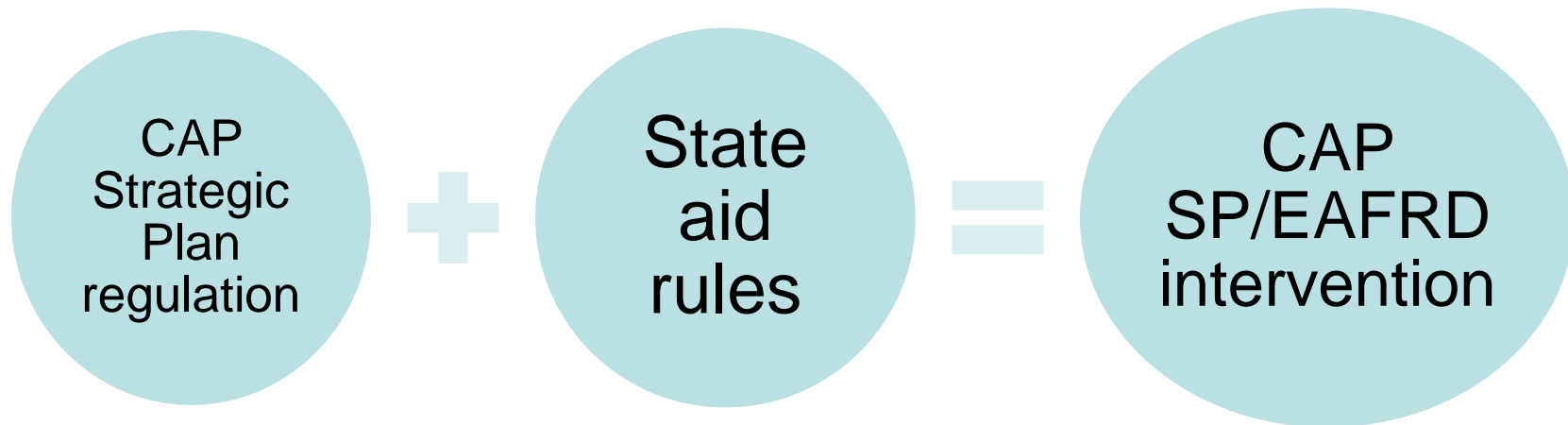
## **STATE AID RULES AND THE CAP-SPs**

State aid rules and procedures **fully apply** to Rural Development support outside Article 42 TFEU, i.e. in favour of:

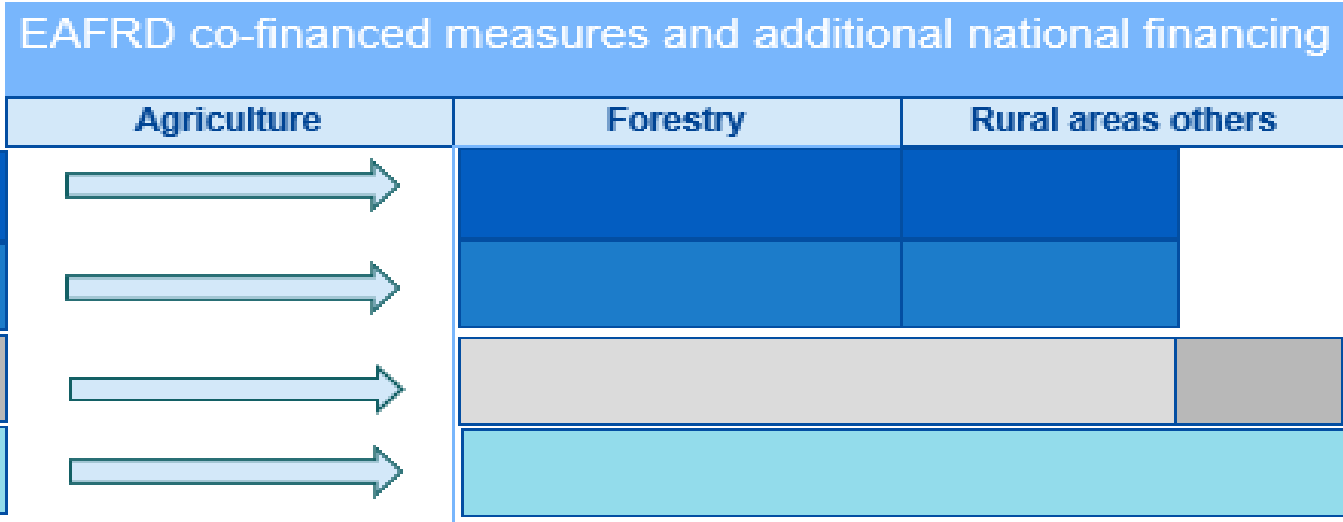
the **forestry** sector; processing of agricultural products into **non-agricultural products** (Annex I => Non Annex I); other **non-agricultural activities** in rural areas (e.g. basic services & village renewal, knowledge transfer, cooperation ...)

*Thus, in addition to the approval of the CAP SPs, MS also have to obtain a "State aid clearance" (notification, block exemption, general de minimis)*

*Where State aid rules do apply in CAP SPs (EAFRD payments and national co-financing and top ups for interventions outside of Article 42 TFEU) the intervention must comply with two sets of EU rules*



# Available State aid clearance



\* Mainly GBER



# ***TAILOR MADE SECTORAL STATE AID RULES FOR EAFRD SUPPORT AND DURABILITY***

*Sectoral State aid rules are consistent to the extent possible with CAP SPR/EAFRD rules*

## ***DURABILITY OF INVESTMENTS***

The Common Provision Regulation does not apply to EAFRD

CAP SPR: durability is not included per se

State aid sector specific rules : 2023 Guidelines for State aid in the agricultural and forestry sectors and in rural areas (2022/C 485/01 (AGRI GL)) and Commission Regulation 2022/2472 (ABER)

***BUT:***

Where CAP SPs require the durability of investments, the same conditions apply for interventions outside of the scope of Article 42 TFEU for the State aid clearance under the sectoral State aid instruments (AGRI GLs and ABER)

EAFRD interventions falling in the scope of Article 42 TFEU fall outside of State aid control

Where MS chose to apply GBER to an EAFRD intervention falling outside of the scope of Article 42 TFEU: the durability condition of GBER applies



**THANK YOU!**

*CONTACT:*

***European Commission***

*DG Competition*

*Unit H.6 – Agriculture and Fisheries*

*COMP-H6@ec.europa.eu*