Reports of Cases

JUDGMENT OF THE COURT (Eighth Chamber)

13 June 2024*

(Reference for a preliminary ruling – Agriculture – Common agricultural policy (CAP) – Support schemes – Direct payments to farmers – Regulation (EU) No 1307/2013 – Article 4(1)(b) and (c) – Concept of 'holding' – Management by a farmer – Concept of 'agricultural activity' – Article 33(1) – Concept of 'agricultural area at the farmer's disposal on a date fixed by the Member State', for the purposes of the activation of payment entitlements – Seasonal handover, in return for a fee, of parcels of land owned by the farmer to users who are responsible for the maintenance of those parcels and for the harvest)

In Case C-731/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Austria), made by decision of 25 November 2022, received at the Court on the same day, in the proceedings

IJ und PO GesbR,

IJ

v

Agrarmarkt Austria,

THE COURT (Eighth Chamber),

composed of N. Piçarra (Rapporteur), President of the Chamber, N. Jääskinen and M. Gavalec, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Agrarmarkt Austria, by M. Borotschnik, acting as Agent,

– the Austrian Government, by A. Posch, J. Schmoll and A. Kögl, acting as Agents,

* Language of the case: German.

– the Spanish Government, by A. Pérez-Zurita Gutiérrez, acting as Agent,

– the European Commission, by A.C. Becker and A. Sauka, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 4(1)(b) and (c) and Article 33(1) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ 2013 L 347, p. 608, and corrigendum OJ 2016 L 130, p. 8).

2 The request has been made in proceedings between, on the one hand, IJ und PO GesbR, a civil-law partnership until 2020 and, from 2021 onwards, only IJ as a natural person (together, 'IJ'), and, on the other hand, Agrarmarkt Austria ('the AMA'), a legal person under Austrian law acting as a paying agency administering support to farmers, concerning three decisions by which the AMA refused to grant IJ direct payments for the years 2019 to 2021.

Legal context

European Union law

Regulation (EC) No 1782/2003

3 Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) [No] 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1) was repealed by Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation No 1782/2003 (OJ 2009 L 30, p. 16). Under the heading 'Use of payment entitlements', Article 44 of Regulation No 1782/2003 provided, in paragraphs 2 and 3 thereof:

'2. "Eligible hectare" shall mean any agricultural area of the holding taken up by arable land and permanent pasture except areas under permanent crops, forests or used for non agricultural activities.

3. The farmer shall declare the parcels corresponding to the eligible hectare accompanying any payment entitlement. Except in case of *force majeure* or exceptional circumstances, these parcels

shall be at the farmer's disposal for a period of at least [10 months], starting from a date to be fixed by the Member State, but not earlier than 1 September of the calendar year preceding the year of lodging the application for participation in the single payment scheme.'

Regulation No 1307/2013

4 Recital 10 of Regulation No 1307/2013, which was repealed by Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and No 1307/2013 (OJ 2021 L 435, p. 1) but is applicable *ratione temporis* to the dispute in the main proceedings, stated:

'Experience acquired in the application of the various support schemes for farmers has shown that support was in a number of cases granted to natural or legal persons whose business purpose was not, or was only marginally targeted at an agricultural activity. To ensure that support is better targeted, Member States should refrain from granting direct payments to certain natural and legal persons unless such persons can demonstrate that their agricultural activity is not marginal. Member States should also have the possibility of not granting direct payments to other natural or legal persons whose agricultural activity is marginal. However, Member States should be allowed to grant direct payments to smaller part-time farmers, since those farmers contribute directly to the vitality of rural areas. …'

5 Article 1 of that regulation, entitled 'Scope', provided:

'This Regulation establishes:

(a) common rules on payments granted directly to farmers under the support schemes listed in Annex I ("direct payments");

…'

6 Article 4 of that regulation, entitled 'Definitions and related provisions', provided:

'1. For the purposes of this Regulation, the following definitions shall apply:

…

(b) "holding" means all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State;

(c) "agricultural activity" means:
   (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
   (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the [European] Commission, or

(iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

…

(e) "agricultural area" means any area taken up by arable land, permanent grassland and permanent pasture, or permanent crops;

…

2. Member States shall:

…

(b) where applicable in a Member State, define the minimum activity to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation, as referred to in point (c)(iii) of paragraph 1;

…'

7 Article 9 of that regulation, entitled 'Active farmer', provided, in paragraph 1 thereof:

'No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and who do not carry out on those areas the minimum activity defined by Member States in accordance with point (b) of Article 4(2).'

8 Article 32 of Regulation No 1307/2013, entitled 'Activation of payment entitlements', was worded as follows:

'1. Support under the basic payment scheme shall be granted to farmers, by means of declaration in accordance with Article 33(1), upon activation of a payment entitlement per eligible hectare in the Member State where it has been allocated. Activated payment entitlements shall give a right to the annual payment of the amounts fixed therein …

2. For the purposes of this Title, "eligible hectare" means:

(a) any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted upon accession to apply the single area payment scheme, that is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities; …

…'

9 Article 33 of that regulation, entitled 'Declaration of eligible hectares', provided, in paragraph 1 thereof:

'For the purposes of the activation of payment entitlements provided for in Article 32(1), the farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment

entitlement. Except in the case of *force majeure* or exceptional circumstances, the parcels declared shall be at the farmer's disposal on a date fixed by the Member State …'

Austrian law

10 Paragraph 20 of the Verordnung des Bundesministers für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft mit horizontalen Regeln für den Bereich der Gemeinsamen Agrarpolitik (Horizontale GAP-Verordnung) (Regulation of the Federal Minister for Agriculture, Forestry, Environment and Water Management laying down horizontal rules to be applied in the area of the common agricultural policy (Horizontal CAP Regulation), BGBl. II, No 100/2015), entitled 'Areas used for non-agricultural activities', provides, in subparagraph 3 thereof:

'The eligible areas within the meaning of Paragraph 17(1) do not, in any case, include paved or built-up areas, gravel pits, quarries, parks, recreational areas, Christmas tree plantations, permanent manoeuvring space and storage areas as well as hedges, woodland, and walls, provided that they do not come within the scope of Paragraph 18(1) or (2).'

11 Paragraph 23 of the Horizontal CAP Regulation, entitled 'Specific provisions applicable to certain uses', provides, in subparagraph 1 thereof:

'The relevant date at which the eligible areas for the activation of payment entitlements must be at the farmer's disposal in accordance with Article 33(1) of [Regulation No 1307/2013] is 9 June of the relevant claim year. …'

The dispute in the main proceedings and the question referred for a preliminary ruling

12 IJ submitted each year, from 2019 to 2021, an application for direct payments in respect of 1.0840 hectares of arable land she owns, which is devoted exclusively to the cultivation of field vegetables and is divided into parcels of different sizes ('the area in question'). IJ is responsible for the soil cultivation, the crop planning and the cultivation of vegetables. At the beginning of the season, she hands over those parcels to users, who are responsible for the maintenance of those parcels and for the harvest, and she herself cultivates one of those parcels in order to convey the applicable standard to new users.

13 Once the parcels are handed over to the users, in return for payment of a 'seasonal fee' to IJ, those users are obliged, under the terms of a use agreement concluded with IJ, to maintain those parcels in accordance with the guidelines for organic farming and regularly to remove weeds throughout the growing season. It follows from the order for reference that on 9 June of each claim year, which is the reference date for the purposes of applying Article 33(1) of Regulation No 1307/2013, as laid down by Paragraph 23(1) of the Horizontal CAP Regulation, the area in question is 'under the care' of those users.

14 During the period when the parcels are 'under the care' of those users, IJ is responsible for the irrigation of the parcels in accordance with her own criteria. She also reserves the right to extract weeds from those parcels, at the expense of the users, if they fail to do so. In the event of a prolonged period of absence, those users are required to find a substitute user who must maintain and harvest their respective parcels. IJ gives no guarantee in respect of the harvest 'due to unpredictable natural conditions'.

15 Following an on-the-spot check, carried out on 13 July 2021, the AMA, on the basis of Paragraph 20(3) of the Horizontal CAP Regulation, classified the area in question as a 'recreational area' ineligible for direct payments, on the ground that the users maintained and harvested the parcels in their free time, without pursuing systematic generation for the purposes of supplying the population, which is the agricultural activity primarily within the scope of the CAP.

16 By decisions of 10 January 2022, the AMA (i) refused to grant direct payments for the area in question in respect of the claim years 2019 to 2021, (ii) demanded reimbursement of the payments already made, and (iii) imposed penalties on IJ on the ground that, from the date of handover of the area's parcels to the users, the area is no longer 'at the disposal' of IJ, within the meaning of Article 33(1) of Regulation No 1307/2013. Relying in particular on the judgment of 14 October 2010, *Landkreis Bad Dürkheim* (C-61/09, EU:C:2010:606), the AMA claims that, on 9 June of each claim year, IJ no longer enjoys a sufficient degree of autonomy when carrying out her agricultural activity on that area. Furthermore, since the users of the parcels 'keep the harvest', they do not work in IJ's name, on her behalf and at her risk, contrary to what that case-law requires.

17 IJ brought an action before the Bundesverwaltungsgericht (Federal Administrative Court, Austria), the referring court, against the AMA's decisions of 10 January 2022, claiming that the parcels at issue remain 'at her disposal', within the meaning of Article 33(1) of Regulation No 1307/2013, from when they are handed over to the users to when the users harvest them, since she is responsible, inter alia, for the soil cultivation of those parcels, their irrigation and the supply of all seeds and planting materials. In those circumstances, the obligation for the users to maintain their respective parcel themselves during that period is no more than a marketing measure, non-compliance with which could lead to that harvest being poorer or its quality being lower.

18 According to the referring court, there is no doubt that the first condition set out in Article 4(1)(b) of Regulation No 1307/2013 for defining a 'holding', that is to say, that the area, situated within the territory of the same Member State, be used 'for agricultural activities', is satisfied, since the area in question is used for the cultivation of agricultural products (vegetables). Therefore, according to that court, the AMA's classification of that area as a 'recreational area' is incorrect in that it is based on an interpretation of Paragraph 20(3) of the Horizontal CAP Regulation that is inconsistent with EU law.

19 By contrast, in the light of the judgment of 14 October 2010, *Landkreis Bad Dürkheim* (C-61/09, EU:C:2010:606), that court is uncertain whether, in the present case, the second condition laid down by Article 4(1)(b), that is to say, that the area in question must be 'managed by a farmer', is satisfied, in so far as, according to that judgment, the agricultural activity must be carried out on that area 'in [that] farmer's name and on his behalf'. In that respect, the referring court submits that such a condition was established by the Court of Justice in a situation that is very different from the present one, which was mainly a matter of avoiding a situation where a number of farmers claim allocation of the parcels concerned to their respective holding. Therefore, according to the referring court, such a condition 'is not fully met'.

20 Furthermore, the referring court doubts that, in the present case, the condition, provided for in Article 33(1) of Regulation No 1307/2013, that the parcels declared by IJ for the purposes of the activation of payment entitlements be 'at the disposal' of IJ on 9 June of each claim year is satisfied, since, on that date, those parcels were 'under the care' of the users.

21 That court states that none of the relevant judgments of the Court of Justice covers 'the specific details' of the case. It considers, however, that the strongest arguments are in favour of the classification of the area in question as 'eligible hectare', within the meaning of Article 32(2) of Regulation No 1307/2013, liable to give a right to the direct payments in question. In the referring court's view, IJ retains the power of disposal and a sufficient degree of autonomy when carrying out her agricultural activity on the area in question, since she freely chooses the users of the parcels of that area and exercises, during the growing period, an influence on the success of the harvest, by carrying out preparatory measures, irrigating that area, and, where necessary, removing weeds and maintaining that area in a condition that is suitable for the cultivation of the crops indicated, even though she does not harvest them.

22 In those circumstances, the Bundesverwaltungsgericht (Federal Administrative Court) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Is Article 4[(1)(b)] and (c), read in conjunction with Article 33(1) of Regulation [No 1307/2013] to be interpreted as meaning that an area is to be regarded as being managed by, and at the disposal of, the farmer if, although that area is owned by the farmer and the farmer also carries out the initial soil cultivation and crop cultivation, as well as the ongoing irrigation of the crop cultures, the area is divided into parcels of different sizes and handed over – from the beginning of the season in April/early May until the end of the season in October – to various users for maintenance and harvesting in consideration for a fixed fee, but without the farmer being entitled to a direct share in the success of the harvest?'

Consideration of the question referred

23 By its single question, the referring court asks, in essence, whether Article 4(1)(b) and (c) in conjunction with Article 33(1) of Regulation No 1307/2013 must be interpreted as precluding a farmer from receiving the direct payments referred to in Article 1(a) of that regulation, in respect of an area which that farmer owns, and that area from being classified as a 'holding managed' by that farmer and 'at the disposal' of that farmer, where, first, the parcels which make up that area are handed over to users chosen by that farmer, who, in return for a fixed fee, are responsible for the maintenance of those parcels and for the harvest and, second, that farmer, without being entitled to the crop yield, carries out the initial soil cultivation, crop cultivation and the ongoing irrigation of those parcels, and even maintains those parcels in the event that those users fail to do so.

24 The concept of 'holding' is defined in Article 4(1)(b) of Regulation No 1307/2013 as 'all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State'.

25 It follows from the very wording of that provision that two cumulative conditions must be satisfied in order for a 'holding' to exist. The first condition requires that the areas concerned, situated within the territory of the same Member State, be used for an 'agricultural activity', within the meaning of Article 4(1)(c). The second condition requires that those areas be 'managed' by the farmer.

26 As regards the first condition, it is common ground that the area in question, which constitutes an 'agricultural area', within the meaning of Article 4(e) of Regulation No 1307/2013, is devoted exclusively to the cultivation of field vegetables. It follows that that activity comes within the scope of Article 4(1)(c)(i) of that regulation, as production, rearing or growing of agricultural products, including harvesting.

27 As the Commission stated in its written observations, Article 4(1)(c) of that regulation does not require that, in order to be classified as an 'agricultural activity', that activity be carried out only during what are considered to be usual periods of work, excluding periods of free time, or that the farmer himself or herself harvests the crops or that the crop yields be reserved for him or her. Nor does that provision require that the 'agricultural activity' be aimed exclusively at the systematic generation for the purpose of supplying the population. In that regard, it is sufficient to note that, under Article 4(1)(c)(ii), 'maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission', amounts also to an 'agricultural activity' within the meaning of that provision.

28 As regards the second condition upon which the existence of a 'holding', within the meaning of Article 4(1)(b) of Regulation No 1307/2013, depends, that is to say, that the areas used 'for agricultural activities [be] managed by a farmer', the Court has previously stated that such a condition does not imply that the farmer has unlimited power over the area in question when using it for agricultural purposes. It is enough that the farmer enjoy a sufficient degree of autonomy or a certain degree of decision-making power with regard to that area in order to carry out his or her agricultural activity, that being a matter for the referring court to assess, taking into account all the circumstances of the case (see, to that effect, judgments of 14 October 2010, *Landkreis Bad Dürkheim*, C-61/09, EU:C:2010:606, paragraphs 61 and 62, and of 7 April 2022, *Avio Lucos*, C-116/20, EU:C:2022:273, paragraphs 49 and 50).

29 Furthermore, it is apparent from Article 9(1) of Regulation No 1307/2013, read in the light of recital 10 thereof, that for the purposes of the grant of the direct payments referred to in Article 1(a) of that regulation, natural or legal persons or groups of natural or legal persons whose agricultural areas 'are mainly areas naturally kept in a state suitable for grazing or cultivation', and who carry out on those areas 'the minimum activity', defined, where applicable, by Member States in accordance with Article 4(2)(b) in conjunction with Article 4(1)(c)(iii) of that regulation, may be classified as an 'active farmer', within the meaning of Article 9(1) of that regulation.

30 In addition, in connection with the two conditions referred to in Article 4(1)(b) of Regulation No 1307/2013, Article 33(1) of that regulation requires, for the purposes of the activation of direct payment entitlements, provided for in Article 32(1) of that regulation, that, except in the case of *force majeure* or exceptional circumstances, the parcels of the agricultural area of the holding, declared as 'eligible hectares', be also 'at the farmer's disposal on a date fixed by the Member State'. The concept of 'eligible hectare' is defined in Article 32(2)(a) as any agricultural area of a holding that is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities.

31 The Court previously interpreted Article 44(2) and (3) of Regulation No 1782/2003 as meaning that the agricultural activity must be carried out on an area in the farmer's name and on his or her behalf, that being a matter for the referring court to determine (judgment of 14 October 2010, *Landkreis Bad Dürkheim*, C-61/09, EU:C:2010:606, paragraph 69).

32 Nevertheless, assuming that the substance of those provisions corresponds to those of Article 32(2) and Article 33(1) of Regulation No 1307/2013, it is important to note that the condition referred to in the preceding paragraph, which does not follow from the wording of those two provisions, was established by the Court in proceedings between, on the one hand, the German body that is the counterpart of the AMA, and, on the other, a public entity, namely Landkreis Bad Dürkheim (rural district authority of Bad Dürkheim, Germany), which had entered into a contract with a farmer placing that farmer under an obligation, in return for a fixed fee, to maintain and manage certain areas, one part of which was owned by a *Land* and the other part of which belonged to other owners who had permitted grazing for the purpose of nature conservation. For the purposes of the grant of payment entitlements under a single payment scheme, that farmer had declared those areas as belonging to her holding and her application had been rejected by that body on the ground that those areas could not be classified as an 'eligible hectare' within the meaning of Article 44(2) of Regulation No 1782/2003.

33 The Court, first of all, held that it is essential that, in such a situation, no third party carry out any agricultural activity on the areas concerned, in order to avoid the situation where a number of farmers claim allocation of those areas to their holding. Next, it interpreted that provision as meaning that the allocation of an agricultural area to a holding is not precluded by the fact that the area is placed at the farmer's disposal free of charge for a specific use and for a limited period of time in accordance with the objectives of nature conservation, on condition that that farmer is able to use that area with a degree of autonomy sufficient for his or her agricultural activities for a period of at least 10 months (judgment of 14 October 2010, *Landkreis Bad Dürkheim*, C-61/09, EU:C:2010:606, paragraphs 66 and 71, second indent).

34 In the light of that case-law, the temporary handover of an agricultural area to various users freely chosen by the farmer, for a fixed fee, in order for them to carry out certain tasks coming within the scope of the concept of 'agricultural activity', cannot preclude that farmer's entitlement to 'direct payments', pursuant to Article 4(1)(b) and (c) in conjunction with Article 33(1) of Regulation No 1307/2013. As the Commission stated in its written observations, it is decisive, for the purpose of linking an agricultural area to a farmer's holding, that, first, that farmer is able to ensure that such an area is in fact used for agricultural activities and, second, that he or she can ensure compliance with the substantive requirements relating to the exercise of those agricultural activities.

35 An agricultural area must be considered to be 'managed by a farmer' and 'at the disposal' of that farmer where those two conditions are satisfied. It must also be classified as an 'eligible hectare' for the purposes of those payments, even if, on the date fixed by the Member State concerned, it is 'under the care' of users chosen by the farmer. Furthermore, where such a farmer carries out on that area, at the very least, a minimum agricultural activity, within the meaning of Article 9(1) of that regulation, read in the light of recital 10 thereof, he or she must be classified as an 'active farmer' for the purposes of the grant of the direct payments referred to in Article 1(a) of that regulation.

36 In the present case, it is apparent from the order for reference that, first, IJ carries out the soil cultivation, the crop planning and the cultivation before handing over the various parcels of the area in question to the chosen users for maintenance and harvesting, and is also responsible for the irrigation of those parcels. Second, pursuant to a use agreement concluded with IJ, those users assume the 'responsibility', inter alia, of regularly removing weeds and are required to comply with the guidelines for organic farming. It is thus apparent, subject to verifications to be carried out by the referring court, that the area in question meets the criteria set out in paragraphs 34 and 35 above and that IJ is an 'active farmer', within the meaning of Article 9 of Regulation No 1307/2013, in conjunction with Article 4(1)(b) thereof.

37 In that regard, it must be added that the order for reference does not indicate that there is, in the main proceedings, a likelihood that farmers other than IJ may make applications for direct payments in respect of the area in question. To that extent, the present case differs from that which gave rise to the judgment of 14 October 2010, *Landkreis Bad Dürkheim* (C-61/09, EU:C:2010:606). Thus, assuming that the same interpretation must be given to Article 32(2) and Article 33(1) of Regulation No 1307/2013 as was given by the Court, in that judgment, to Article 44(2) and (3) of Regulation No 1782/2003, to the effect that, in circumstances such as those which gave rise to that judgment, they require that the agricultural activity on the area in question be carried out in the name of and on behalf of the farmer who applies for direct payments, such a requirement would not be applicable in the present case (see, by analogy, judgment of 17 December 2020, *Land Berlin (Payment entitlements linked to the CAP)*, C-216/19, EU:C:2020:1046, paragraphs 43 and 44).

38 In the light of the foregoing considerations, the answer to the question referred is that Article 4(1)(b) and (c) in conjunction with Article 33(1) of Regulation No 1307/2013 must be interpreted as not precluding a farmer from receiving the direct payments referred to in Article 1(a) of that regulation, in respect of an area which that farmer owns, and that area from being classified as a 'holding managed' by that farmer and 'at the disposal' of that farmer, where, first, the parcels which make up that area are handed over to users chosen by that farmer, who, in return for a fixed fee, are responsible for the maintenance of those parcels and for the harvest and, second, that farmer, without being entitled to the crop yield, carries out the initial soil cultivation, crop cultivation and the ongoing irrigation of those parcels, and even maintains those parcels in the event that those users fail to do so.

Costs

39 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Eighth Chamber) hereby rules:

Article 4(1)(b) and (c) in conjunction with Article 33(1) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009

must be interpreted as not precluding a farmer from receiving the direct payments referred to in Article 1(a) of that regulation, in respect of an area which that farmer owns, and that area from being classified as a 'holding managed' by that farmer and 'at the disposal' of that farmer, where, first, the parcels which make up that area are handed over to users chosen by that farmer, who, in return for a fixed fee, are responsible for the maintenance of those parcels and for the harvest and, second, that farmer, without being entitled to the crop yield, carries out the initial soil cultivation, crop cultivation and the ongoing irrigation of those parcels, and even maintains those parcels in the event that those users fail to do so.

[Signatures]