



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director General, in charge of Directorates E, G and H

Brussels
AGRI.E.2/DF/bb(2022)6022045

Dear Ms Di Franco,

Thank you very much for your mail of 14 July 2022 concerning the extension of the validity of planting authorisations expiring in 2022 because of the dry climatic conditions in several regions of Italy.

We understand the growing difficulties faced by winegrowers in certain areas in recent years. However, unfortunately these climatic developments, which are worsening over the years, are a sign of a general, longer-term trend that will have to be taken into account in all future decisions.

The declaration of a case of *force majeure* and natural disaster for certain regions affected by exceptionally dry weather conditions must be undertaken by the Member State concerned after a careful assessment on a case-by-case basis. The Commission notice C(88)1696¹ provides general guidance on *force majeure*. The declaration of a case of *force majeure* might indeed have consequences for the application of certain EU provisions, such as the rules on import licences referred to in your email. However, in contrast to import licenses, the EU provisions on planting authorisations do not provide for the possibility to extend their validity on the basis of *force majeure*.

Nevertheless, in order to respect the general principle of proportionality and in line with Article 64(2)(a) of Regulation (EU) No 1306/2013², if producers do not use the authorisations during the period of validity due to force majeure, they should not be subject to the administrative penalties referred to in Article 62(3) of Regulation (EU) No 1308/2013³ and Article 89(4) of Regulation (EU) No 1306/2013.

¹ Commission notice C(88)1696 concerning ‘*force majeure* in European agricultural law’ (OJ C 259, 06.10.1988, p.10)

² Regulation (EU) No 1306/2013 of the European Parliament and of Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549)

³ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council

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In addition, please be reminded that even in situations which present significant challenges for winegrowers or in which the compliance with Union law is temporarily not possible or extremely difficult, there is not automatic recourse to the notion of *force majeure*. Therefore, it should be carefully assessed whether the drought can be considered as abnormal and unforeseeable circumstances within the meaning of the legal notion of *force majeure*. It should be further consider whether this climatic event actually impacts the ability of winegrowers to comply with the time limits for the use of their authorisations, given that planting typically does not occur in summer.

The present opinion is provided on the basis of the facts as set out in your e-mail of 14 July 2022 and expresses the view of the Commission services, and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

An Italian translation of this letter will be sent to you as soon as possible.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Bertrand', with a long, sweeping underline that extends to the right.

p.o. Christophe BERTRAND
Head of Unit
in absence of
Michael SCANNELL