

Council Regulation (EC) No 1698/2005 of 20 September
2005 on support for rural development by the European
Agricultural Fund for Rural Development (EAFRD) (repealed)

TITLE V

EAFRD CONTRIBUTION

Article 69

Resources and their distribution

1 The amount for Community support to rural development under this Regulation for the period from 1 January 2007 to 31 December 2013, its annual breakdown and the minimum amount to be concentrated in regions eligible under the Convergence Objective shall be fixed by the Council, acting by a qualified majority on a proposal from the Commission, in accordance with the financial perspective for the period 2007 to 2013 and the Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure for the same period.

2 0,25 % of the resources referred to in paragraph 1 shall be devoted to technical assistance for the Commission as referred to in Article 66(1).

3 For the purpose of their programming and subsequent inclusion in the general budget of the European Communities, the amounts referred to in paragraph 1 shall be indexed at 2 % per year.

4 The Commission shall make an annual breakdown by Member State of the amounts referred to in paragraph 1, after deduction of the amount referred to in paragraph 2, and taking into account:

- a the amounts reserved for regions eligible under the Convergence Objective;
- b past performance; and
- c particular situations and needs based on objective criteria.

5 In addition to the amounts referred to in paragraph 4, the Member States shall take into account for the purpose of programming the amounts resulting from modulation as provided for in Article 12(2) of Regulation (EC) No 1290/2005.

[^{F16} The Commission shall ensure that total annual allocations from the EAFRD originating from the EAGGF Guidance Section for any Member State pursuant to this Regulation, and from the ERDF, the ESF and the CF, in accordance with Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund⁽¹⁾, including the contribution of ERDF in accordance with Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument⁽²⁾ and Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)⁽³⁾, and from the European Fisheries Fund according to Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund⁽⁴⁾, do not exceed the following limits:

- for Member States whose average 2001-2003 GNI per capita (PPS) is below 40 % of the EU-25 average: 3,7893 % of their GDP,

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 40 % and below 50 % of the EU-25 average: 3,7135 % of their GDP,
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 50 % and below 55 % of the EU-25 average: 3,6188 % of their GDP,
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 55 % and below 60 % of the EU-25 average: 3,5240 % of their GDP,
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 60 % and below 65 % of the EU-25 average: 3,4293 % of their GDP,
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 65 % and below 70 % of the EU-25 average: 3,3346 % of their GDP,
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 70 % and below 75 % of the EU-25 average: 3,2398 % of their GDP,
- thereafter, the maximum level of transfer is reduced by 0,09 percentage points of GDP for each increment of 5 percentage points of average 2001-2003 per capita GNI (PPS) as compared to the EU-25 average.

Calculations of the GDP by the Commission shall be based on the statistics published in April 2005. Individual national growth rates of GDP for 2007-2013, as projected by the Commission in April 2005, shall be applied for each Member State separately.

If in 2010 it is established that any Member State's cumulated GDP for the years 2007-2009 has diverged by more than ± 5 % from the cumulated GDP estimated pursuant to the second subparagraph, including as a consequence of exchange rate changes, the amounts allocated for that period to that Member State pursuant to the first subparagraph shall be adjusted accordingly. The total net effect, whether positive or negative, of these adjustments may not exceed EUR 3 000 million. In any event, if the net effect is positive, total additional resources shall be limited to the level of under-spending against the maximum resources available for commitments from the Structural Funds and the CF for the years 2007-2010. Final adjustments shall be spread in equal proportions over the years 2011-2013. In order to reflect the value of the Polish zloty in the reference period, the result of the application of the percentages referred to in the first subparagraph for Poland shall be multiplied by a coefficient of 1,04 for the period up to the review referred to in this subparagraph.]

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 1944/2006 of 19 December 2006 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 70

Fund contribution

1 The Decision adopting a rural development programme shall set the maximum contribution from the EAFRD for each axis within a flexibility threshold to be defined in accordance with the procedure referred to in Article 90(2). The decision shall clearly identify, where necessary, the appropriations allocated to the regions eligible under the Convergence Objective.

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2 The EAFRD contribution shall be calculated on the basis of the amount of eligible public expenditure.

3 The EAFRD contribution rate shall be established for each axis.

a In the case of axis 1 (competitiveness) and axis 3 (diversification and quality of life) as well as for the technical assistance according to Article 66(2) the following ceilings shall apply respectively:

(i) 75 % of the eligible public expenditure in the regions eligible under the Convergence Objective;

(ii) 50 % of the eligible public expenditure in the other regions.

b In the case of axis 2 (improving the environment and the countryside) and axis 4 (Leader) the following ceilings shall apply respectively:

(i) 80 % of the eligible public expenditure in the regions eligible under the Convergence Objective;

(ii) 55 % of the eligible public expenditure in the other regions.

The minimum EAFRD contribution rate at axis level shall be 20 %.

4 Notwithstanding the ceilings set out in paragraph 3, the EAFRD contribution may be increased to 85 % for the programmes of the outermost regions and the smaller Aegean Islands within the meaning of Regulation (EEC) No 2019/93.

[^{F2}4a Paragraphs 3 and 4 may, in certain cases, not apply in Portugal for an amount of EUR 320 million.]

5 For Member States opting for a specific programme pursuant to Article 66(3), second subparagraph, the ceiling of the EAFRD contribution shall be 50 % of the eligible public expenditure.

6 Technical assistance measures taken at the initiative of the Commission or on its behalf may be funded at 100 %.

7 An expenditure co-financed by the EAFRD shall not be co-financed by way of a contribution from the Structural Funds, the CF or any other Community financial instrument.

It may be co-financed under only one axis of the rural development programme. Where an operation falls under measures from more than one axis, the expenditure shall be attributed to the dominant axis.

8 Public expenditure on aid to enterprises shall comply with the aid limits laid down in respect of State aid, unless this Regulation provides otherwise.

Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 1944/2006 of 19 December 2006 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

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Article 71

Eligibility of expenditure

1 Without prejudice to Article 39(1) of Regulation (EC) No 1290/2005, expenditure shall be eligible for a EAFRD contribution if the relevant aid is actually paid by the paying agency between 1 January 2007 and 31 December 2015. Co-financed operations should not be completed before the eligibility starting date.

A new expenditure added at the moment of the modification of a programme referred to in Article 19, shall be eligible from the date of the reception by the Commission of the request for modification of the programme.

2 Expenditure shall be eligible for a EAFRD contribution only where incurred for operations decided on by the Managing Authority of the programme in question or under its responsibility, in accordance with the selection criteria fixed by the competent body.

3 The rules on eligibility of expenditure shall be set at national level, subject to the special conditions laid down by this Regulation for certain rural development measures.

The following costs are not eligible for a EAFRD contribution:

- a VAT, except non-recoverable VAT when it is genuinely and definitively borne by beneficiaries other than non taxable persons referred to in Article 4(5), first subparagraph of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽⁵⁾;
- b interest on debt, without prejudice to paragraph 5;
- c the purchase of land costing more than 10 % of all the eligible expenditure on the operation concerned. In exceptional and duly justified cases, a higher percentage can be fixed for operations concerning environmental conservation.

4 Paragraphs 1 to 3 shall not apply to Article 66(1).

5 Notwithstanding paragraph 3(b) the contribution from the EAFRD may be made in a form other than a non-repayable direct assistance. Detailed rules shall be defined in accordance with the procedure referred to in Article 90(2).

Article 72

Durability of investment-related operations

1 Without prejudice to the rules relating to the freedom of establishment and the free provision of services within the meaning of Articles 43 and 49 of the Treaty, the Member State shall ensure that an investment operation retains the EAFRD contribution if that operation does not, within five years of the Managing Authority's funding decision, undergo a substantial modification that:

- a affects its nature or implementation conditions or gives undue advantage to a firm or public body;
- b results either from a change in the nature of ownership of an item of infrastructure, or the cessation or relocation of a productive activity.

2 Amounts unduly paid out shall be recovered in accordance with Article 33 of Regulation (EC) No 1290/2005.

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- (1) [^{F1}OJ L 210, 31.7.2006, p. 25.
- (2) OJ L 310, 9.11.2006, p. 1.
- (3) OJ L 210, 31.7.2006, p. 82.
- (4) OJ L 223, 15.8.2006, p. 1.]
- (5) OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 1944/2006 of 19 December 2006 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

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