EUROPEAN COMMISSION

Brussels, 1.8.2011
COM(2011) 481 final

2011/0209 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 1698/2005 as regards certain provisions relating to financial management for certain Members States experiencing or threatened with serious difficulties with respect to their financial stability

EXPLANATORY MEMORANDUM

1. BACKGROUND TO THE PROPOSAL

- **Reasons and objectives for the proposal**

The sustained financial and economic crisis is increasing the pressure on national financial resources, as Member States are reducing their budgets. In this context ensuring a smooth implementation of rural development programmes is of particular importance as a tool for providing financial assistance to the real economy.

Nonetheless, the implementation of the programmes is often challenging as a result of the liquidity problems resulting from budget constraints. This is particularly the case for those Member States which have been most affected by the crisis and have received financial assistance under a programme from the Balance of Payments (BoP) mechanism for non EURO countries or from the European Financial Stabilisation Mechanism (EFSM) for the EURO countries. To date, six countries have requested financial assistance under these mechanisms and have agreed with the Commission a macro-economic adjustment programme. Hungary has received financial assistance from 2009 but has exited the support mechanism in 2010. The remaining five countries are Romania and Latvia under the BoP and Portugal, Greece, and Ireland under the EFSM, hereafter called "programme countries.

In order to help these Member States to continue the implementation of the programmes on the ground and disburse funds to projects, the current proposal contains provisions that allow the EAFRD contribution rate applicable to the rural development programmes of these MS to be increased up to a maximum of 95% of eligible public expenditure in the regions eligible under the Convergence objective, the outermost regions and the smaller Aegean Islands and 85% of eligible public expenditure in other regions as long as they are under the support mechanisms. This will provide additional financial resources to the Member States and will facilitate the continuation of the implementation of the programmes on the ground.

- **General context**

The deepening of the financial crisis in some of the Member States is undoubtedly affecting substantially the real economy due to the amount of debt and the difficulties encountered by the Governments to borrow money from the market.

The Commission has been very active in putting forward proposals on how best to react to the current financial crisis and to its socio-economic consequences. In particular in the framework of its recovery package, the Commission proposed in December 2008 a number of regulatory changes to increase the EAFRD contribution rate applicable to the expenditure incurred by the rural development programmes within the year 2009. Greece, Latvia and Hungary among the countries above indicated, benefited of this facility.

- **Provisions in force in the policy sphere of the proposal**

Council Regulation (CE) No 1698/2005 on support for rural development by the European agriculture Fund for Rural Development (EAFRD) defines the common rules applicable to the programming process as well as arrangements for programme management, monitoring, and evaluation of projects.

Rural development programmes shall be re-examined and adapted for the remainder of the programming period, in case this would be neccesary to ensure consistency with the Community strategic guidelines, the national strategy plan and Regulation (CE) No 1698/2005, in line with Articles 18 and 19 of that Regulation.

Article 26(1) of Council Regulation (EC) 1290/2005 provides that the interim payments shall be calculated by applying the co-financing rate for each priority to the certified public expenditure pertaining to it.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2. CONSULTATION OF INTEREST PARTIES AND IMPACT ANALYSIS

- **Consultation of interested parties**

The proposal is consistent with other proposals and intitiatives adopted by the European Commission as a response to the financial crisis .

- **Procurement and use of expertise**

Use of external expertise has not been necessary.

- **Impact analysis**

The proposal will allow the Commission to approve higher EAFRD contribution rates for the countries concerned, for as long as they are under the support mechanisms.

There is no need for an additional budget as the total financial allocation from the Funds for the countries and the programmes over the 2007-2013 programming period will not change.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposal**

- It is proposed to modify article 70 of Council Regulation 1698/2005 in order to allow the EAFRD contribution rate applicable to the rural development programmes of the MS concerned to be increased up to 95% of eligible public expenditure in the regions eligible under the Convergence objective, the outermost regions and the smaller Aegean Islands and 85% of eligible public expenditure in other regions, for as long as they are under the support mechanisms.

Following the adoption of a Council decision granting assistance to a Member State under the support mechanisms, the MS will submit to the Commission a proposal of modification of its rural development programme increasing the EAFRD co-financing rates. Payments submitted after approval of this modification will benefit of the higher support. This will be a temporary measure which will be terminated once the Member State exits the support mechanism.

In accordance with the general principles applicable under Regulation (EC) No 1698/2005, the increased co-financing rates may only apply for payments to be made after the respective rural development programmes, including the new financial plans, have been approved by the Commission.

- **Legal basis**

Council Regulation (CE) No 1698/2005 of 20 September 2005 on support for rural development by the European agriculture Fund for Rural Development (EAFRD) defines the common rules applicable to the programming process as well as arrangements for programme management, monitoring, and evaluation of projects. The proposal to modify Regulation (CE) No 1698/2005 should be based on Articles 42 and 43 of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

The proposal complies within the subsidiarity principle to the extent that it seeks to provide increased support through the EAFRD for certain Member States which experience serious difficulties or are threatened with such difficulties notably with problems in their economic growth and financial stability and with a deterioration in their deficit and debt position, also due to the international economic and financial environment. In this context, it is necessary to establish at the European Union level a temporary mechanism which allows the European Commission to reimburse certified expenditure under the EAFRD, using a higher co-financing rate.

- **Proportionality principle**

The proposal conforms to the proportionality principle:

The current proposal is indeed proportionate since it goes a long way in providing increased support from the EAFRD to the Member States in difficulties or threatened with severe difficulties caused by exceptional occurrences going beyond its control and falling under the conditions of Council Regulation (EU) 407/2010 (establishing the European financial stabilization mechanism), or in difficulties or seriously threatened with difficulties as regards its balance of payments and falling under the conditions of Council Regulation (EC) 332/2002. For Greece, the Inter-creditor Agreement concluded together with the Euro Area Loan Facility Act entered into force on 11 May 2010. It foresees that the availability period would expire on the third anniversary of the date of the agreement.

- **Choice of instruments**

Proposed instrument: regulation.

Other instruments would not be appropriate for the following reasons:

The Commission has explored the scope for manoeuvre provided by the legal framework and considers necessary, in the light of the experience up to now, to propose modifications to the Council Regulation 1698/2005. The objective of this revision is to further facilitate the co-financing of projects thereby accelerating both their implementation and the impact of such investments on the real economy.

4. BUDGETARY IMPACT

There is no impact on commitment appropriations since no modification is proposed to the maximum amounts of EAFRD financing provided for in the Operational Programmes for the programming period 2007-2013. For the period in question, the Commission will be reimbursing certified expenditure at a higher co-financing rate. This will immediately translate in additional payments to the Member States concerned for the expenditure declared to the Commission from the date of entry into force of this Regulation, following the revision of the rural development programmes.

On the basis of the forecasts of expenditure sent to the Commission to date by the Member States concerned, an additional EUR 90 million from the 2011 budget if the proposal is approved in time, and EUR 470 million from the 2012 budget might be necessary to be paid out in case the Member States decide to use the maximum co-finance rate allowed.

In the light of Member State's request to benefit from the action and taking into account the evolution in regard to the submission of interim payments, the Commission will in 2012 review the need for additional payment appropriations and if necessary propose the relevant actions to the Budgetary Authority.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42, 43 and thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure

Whereas:

(1) The unprecedented global financial crisis and economic downturn have seriously damanged economic growth and financial stability and provoked a strong deterioration of financial and economic conditions of several Member States. In particular, certain Member States experience serious difficulties or are threatened with such difficulties, notably with problems in their economic growth and financial stability and with a deterioration in their deficit and debt position, also due to the international economic and financial environment.

(2) Whilst important actions to counterbalance the negative effects of the crisis have already been taken, including amendments of the legislative framework, the impact of the financial crisis on the real economy, the labour market and the citizens is being widely felt. The pressure on national financial resources is increasing and further steps should be taken to alleviate that pressure through the maximum and optimal use of the funding from the European Agricultural Fund for Rural Development (hereinafter the "EAFRD").

(3) Based on Article 122(2) of the Treaty providing the possibility of granting Union financial assistance to a Member State in difficulties or seriously threatened with

[1] OJ L , , p. .
[2] OJ L , , p. .

severe difficulties caused by exceptional occurences beyond its control, Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism[3] has established such mechanism with a view to preserving the financial stability of the Union.

(4) By Council Implementing Decisions 2011/77/EU of 7 December 2010[4] and 2011/344/EU of 30 May 2011[5] Ireland and Portugal were granted such Union financial assistance. Greece was experiencing serious difficulties with respect to its financial stability before the entry into force of Regulation (EU) No 407/2010 and received financial assistance *inter alia* from other euro area Member States.

(5) Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments[6] has established an instrument providing that the Council will grant mutual assistance where a Member State which has not adopted the euro is in difficulties or is seriously threatened with difficulties as regards its balance of payments.

(6) By Council Decisions 2009/102/EC of 4 November 2008[7], 2009/290/EC of 20 January 2009[8] and 2009/459/EC of 26 June 2009[9] Hungary, Latvia and Romania were granted such financial assistance.

(7) The period during which the assistance is available to Ireland, Hungary, Latvia, Portugal and Romania is set out in the respective Council Decisions. Assistance to Hungary expired on 4 November 2010.

(8) For Greece, the Inter-creditor Agreement concluded together with the Euro Area Loan Facility Act entered into force on 11 May 2010. It foresees that the availability period would expire on the third anniversary of the date of the agreement.

(9) On 11 July 2011, finance ministers of the 17 euro-area Member States signed the Treaty establishing the European Stability Mechanism (ESM). The Treaty follows the European Council decision of 25 March 2011. It is foreseen that by 2013, the ESM will assume the tasks currently fulfilled by the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM).

(10) The European Council conclusions of 23 and 24 July 2011 welcome the Commission's intention to enhance the synergies between the loan programme for Greece and the Union funds, supporting efforts to increase Greece's capacity to absorb Union funds in order to stimulate growth and employment by refocusing on improving competitiveness and employment creation. Moreover, the conclusions welcome and support the preparation by the Commission, together with the Member States, of a comprehensive programme of technical assistance to Greece. This Regulation contributes to these synergy efforts.

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[3] OJ L 118, 12.5.2010, p. 1.
[4] OJ L 30, 4.2.2011, p. 34.
[5] OJ L 159, 176.2011, p. 88.
[6] OJ L 53, 23.2.2002, p. 1.
[7] OJ L 37, 6.2.2009, p. 5.
[8] OJ L 79, 25.3.2009, p. 39.
[9] OJ L 150, 13.6.2009, p. 8.

(11) In order to facilitate the management of Union funding, to help accelerate the investments in Member States and regions concerned and to increase the impact of the funding on the economy it is necessary to allow the increase of the EAFRD contribution rate up to a 95% of eligible public expenditure in the regions eligible under the Convergence objective and 85% of eligible public expenditure in other regions which are facing serious difficulties with respect to their financial stability.

(12) In accordance with the general principles applicable under Regulation (EC) No 1698/2005, the increased co-financing rates may only apply for payments to be made after the respective rural development programmes, including the new financial plans, have been approved by the Commission. It is therefore also necessary to determine the procedure under which the Member States may use that possibility as well as the mechanism through which it will be ensured.

(13) Council Regulation (EC) No 1698/2005 of 11 July 2006 on support for rural development by the Agricultural Fund for Rural development EAFRD,[10]should therefore be amended accordingly.

[10] OJ L 210, 31.7.2006, p. 25.

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 70 of Regulation (EC) No 1698/2005 the following paragraph 4c is inserted after paragraph 4b:

"4c. By way of derogation from the ceilings set out in paragraphs 3, 4 and 5, the EAFRD contribution may be increased up to a maximum of 95% of eligible public expenditure in the regions eligible under the Convergence objective and the outermost regions and the smaller Aegean Islands, and 85% of eligible public expenditure in other regions. These rates shall apply to the eligible expenditure newly declared in each certified declaration of expenditure submitted during the period in which a Member State complies with one of the following conditions:

(a) Financial assistance is made available to it under Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism* or, is made available by other euro-area Member States before the entry into force of that Regulation, ;

(b) medium-term financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments**;

(c) financial assistance is made available to it in accordance with the Treaty establishing the European Stability Mechanism.

A Member State wishing to make use of the derogation provided in the first subparagraph shall submit a request to the Commission to modify its rural development programme accordingly. The derogation shall apply as of the approval, by the Commission, of the modification of the programme, and shall cease to apply once the Member State does no longer meet in any of the conditions set out in points (a), (b) or (c) of the first subparagraph. The Member State shall then send the Commission a proposal for modification of the programme including a new financing plan in conformity with the maximum rates applicable before the derogation.

If a Member State does not submit to the Commission a proposal for modifying its rural development programme, including a new financing plan on the date it does no longer meet any of the conditions set out in points (a), (b) or (c) of the first subparagraph of this paragraph, or if the financing plan notified is not in conformity with the maximum rates laid down in paragraphs 3, 4 and 5 of this Article, those rates shall become automatically applicable as from that date.

* OJ L 118, 12.5.2010, p. 1.

** OJ L 53, 23.2.2002, p. 1."

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *The President*	*For the Council* *The President*

LEGISLATIVE FINANCIAL STATEMENT

FINANCIAL STATEMENT			AGRI/I1/Ares/2011/880294 Rev 1 (JGS/dz) 6.20.2011.6	
			DATE: 26/07/2011	
1.	BUDGET HEADING: 05 04 05 01		APPROPRIATIONS 2011: CA: EUR 14 407 971 311 PA: EUR 11 900 560 340	
2.	TITLE: Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) as regards the financial contribution by the Fund for certain Member States			
3.	LEGAL BASIS: -			
4.	AIMS: To modify the Regulation 1698/2005 to allow in certain Member States facing serious difficulties with respect to their financial stability the increase of the EAFRD contribution rate up to a maximum of 95% of the eligible public expenditure.			
5.	FINANCIAL IMPLICATIONS **(1)**	~~12 MONTH PERIOD (EUR million)~~	CURRENT FINANCIAL YEAR 2011 (EUR million)	FOLLOWING FINANCIAL YEAR 2012 (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (current prices) - NATIONAL AUTHORITIES - OTHER	-	CA: - PA: + 90	CA: - PA: + 470
5.1	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	-	-	-
		2011	2012	2013
5.0.1	ESTIMATED EXPENDITURE (current prices) CA PA	 **-** **+90**	 - +**470**	 - -
5.1.1	ESTIMATED REVENUE	-	-	-
5.2	METHOD OF CALCULATION:-			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			~~YES NO~~
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			~~YES NO~~
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			~~YES NO~~
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			~~YES NO~~
6.4	OTHER			

OBSERVATIONS:

(1) As regards commitment appropriations, the modification of Regulation 1698/2005 will not have any financial impact as the global envelope for rural development remains unchanged as well as its annual breakdown.

For payments, the increase of the co-financing rate can result in higher reimbursements to the MS concerned. In the event that the proposal is approved in time to apply the new rate to the payment requests relating to the third quarter 2011, the additional payment appropriations necessary in this year can be estimated at EUR 90 million. For 2011, the situation if needed will be handled in the Global Transfer.

The estimate of additional payments to be made in 2012 amounts to EUR 470 million. In the light of Member State's requests to benefit from the action and taking into account the evolution regarding the submission of interim payments, the Commission will in 2012 review the need for additional payment appropriations and if necessary propose the relevant actions to the Budgetary Authority.

No estimate has been calculated for year 2013 since, in the event that exceptional circumstances continue to justify increased co-financing rates, the consequences would be taken into account in the budget procedure. As the total envelope of the EARDF does not change, additional payments in 2011 and 2012 will lead to an

equivalent reduction of payments at the end of the period