Council Regulation (EC) No 473/2009 of 25 May 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and Regulation (EC) No 1290/2005 on the financing of the common agricultural policy

COUNCIL REGULATION (EC) No 473/2009

of 25 May 2009

amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and Regulation (EC) No 1290/2005 on the financing of the common agricultural policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament[(1)],

Whereas:

(1) The European Council, at its meeting on 11 and 12 December 2008, approved a European Economic Recovery Plan (EERP), which envisages the initiation of priority action to enable Member States' economies to adjust more rapidly to current challenges. The EERP is based on an effort equivalent in total to around 1,5 % of European Union GDP, a figure amounting to around EUR 200 billion.

(2) Of the above amount, EUR 1 020 million should be made available to all Member States via the European Agricultural Fund for Rural Development (EAFRD) with a view to developing broadband Internet in rural areas and to strengthening the operations related to the priorities laid down in points (a) to (f) of Article 16a(1) of Council Regulation (EC) No 1698/2005[(2)] (hereinafter new challenges).

(3) Several amendments of Regulation (EC) No 1698/2005 are necessary to establish the legal framework to allow Member States to use the amount of EUR 1 020 million, in continuity with the amendments introduced by Council Regulation (EC) No 74/2009[(3)] which enables Member States to use amounts resulting from increased compulsory modulation and unused funds generated under Article 136 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers[(4)] on operations related to the new challenges.

(4) In view of the particular weight in the general budget of the European Communities of the resource referred to in Article 2(1)(c) of Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources[(5)], it is appropriate to continue to provide, exceptionally, for the Council, acting by qualified majority on a proposal from the Commission, to adopt the necessary decision

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concerning the amount of Community support for rural development 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.

(5) Given the additional resources to be made available as Community support for rural development under the EERP, it is necessary for Member States to revise their national strategy plan (NSP). Since all Member States will receive additional funds from 2009, they should all be required to revise their NSP by 15 July 2009.

(6) The Conclusions of the European Council of 12 December 2008 record the European Council's support for the EERP, in particular, to develop broadband Internet, including in areas that are poorly served. Because rural areas often suffer from insufficient Internet access, support for broadband infrastructures in rural areas should be strengthened with the support of EAFRD. Given the importance of this priority, Member States, in accordance with their needs, should provide in their programmes for operations related to this priority by the end of 2009. A list of types of operations related to broadband infrastructures should be established in order to allow Member States to identify the relevant operations in the context of the legal framework for rural development.

(7) As the additional funds from the EERP will be made available to all Member States in 2009 and 2010, all Member States should provide in their rural development programmes for types of operations related to the new challenges already as from 2009.

(8) The obligation to submit revised rural development programmes by 15 July 2009 should, therefore, apply to all Member States.

(9) Given the additional, specific and binding use of financial resources resulting from the application of compulsory modulation under Regulation (EC) No 73/2009, of the amounts generated under Article 136 of that Regulation and of the amounts to be made available as Community support for rural development under the EERP, the established balance between objectives of support for rural development should not be affected by those financial resources.

(10) Rural areas often lack broadband infrastructure both small and large scale. The latter may be crucial for serving less accessible rural areas. In order to ensure the most effective use of available resources and to allow a substantive development of the broadband Internet in rural areas, the pertinent operations should be considered eligible without limitation in the size of the related infrastructure. Therefore, the existing limitation in size for infrastructure in basic services for economy and rural population should not apply to the operations related to broadband infrastructures.

(11) In order to achieve the specific policy objectives of strengthening the operations related to the new challenges and developing broadband Internet infrastructures, it is necessary to provide that the financial resources to be made available as Community support for rural development under the EERP have to be used for certain specific purposes and to combine this obligation with the existing obligation for the amounts resulting from the compulsory modulation and the amounts generated under Article 136 of Regulation (EC) No 73/2009.

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(12) Given the importance of the broadband operations at Community level, the increase of the EAFRD contribution foreseen in Regulation (EC) No 74/2009 should also apply to such types of operations in order to facilitate their implementation.

(13) In order to help Member States which are particularly affected by the economic crisis and which have difficulties in providing national financial resources to use the available EAFRD funds, higher co-financing rates should be exceptionally allowed in 2009.

(14) As the measures provided for in the proposed amendments do not prejudice the legitimate expectations of economic operators and should cover 2009, this Regulation should apply from 1 January 2009.

(15) Regulation (EC) No 1698/2005 should therefore be amended accordingly.

(16) In order to ensure that the EERP is taken into account for the budget discipline, it is necessary to adapt the provisions concerning the budget ceiling for the expenditure financed by the European Agricultural Guarantee Fund (EAGF) referred to in Article 12 of Council Regulation (EC) No 1290/2005[(6)] by taking also into account the sums fixed under Heading 2 for the rural development under the recovery package in accordance with Council Decision 2009/434/EC of 25 May 2009 amending Decision 2006/493/EC laying down the amount of Community support for rural development 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[(7)] and the amount for projects in the field of energy which could be decided in accordance with the procedure set out in the Declaration of the European Parliament, the Council and the Commission on the financing of projects in the field of energy and broadband Internet as well as the CAP Health Check in the framework of the European Economic Recovery Plan[(8)]. Regulation (EC) No 1290/2005 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1698/2005 is hereby amended as follows:

1. Article 12a is replaced by the following:

Article 12a

Revision

1 Member States shall revise, in accordance with the procedure referred to in Article 12(1), their national strategy plans following the review of the Community strategic guidelines as referred to in Article 10.

2 The revised national strategy plan referred to in paragraph 1 shall be sent to the Commission no later than 15 July 2009.;

2. Article 16a is replaced by the following:

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Article 16a

Specific operations related to certain priorities

1 By 31 December 2009, Member States shall provide in their rural development programmes, in accordance with their specific needs, for types of operations having the following priorities as described in the Community strategic guidelines and specified further in the national strategy plans:

a climate change;

b renewable energies;

c water management;

d biodiversity;

e measures accompanying restructuring of the dairy sector;

f innovation linked to the priorities mentioned in points (a) to (d);

g broadband Internet infrastructure in rural areas.

The types of operations to be linked to the priorities referred to in points (a) to (f) of the first subparagraph shall be aimed at achieving effects such as the potential effects specified in Annex II. An indicative list of such types of operations and their potential effects is set out in Annex II. A list of types of operations linked to the priority referred to in point (g) of the first subparagraph is set out in Annex III.

The revised rural development programmes related to the operations referred to in this paragraph shall be submitted to the Commission no later than 15 July 2009.

2 From 1 January 2009, for types of operations referred to in points (a) to (f) of paragraph 1, the aid intensity rates fixed in Annex I may be increased by 10 percentage points.

3 By 31 December 2009, each rural development programme shall also include:

a the list of types of operations and the information referred to in Article 16(c) on the specific types of operations referred to in paragraph 1 of this Article;

b a table setting out, for the period from 1 January 2009 to 31 December 2013, by measure the Community contribution for types of operations referred to in points (a) to (f) of paragraph 1 and by measure the Community contribution for types of operations referred to in paragraph 1(g).;

3. in Article 17, paragraph 3 is replaced by the following:

3. The amounts equal to those resulting from the application of the compulsory modulation under Article 69(5a) together with, as from 2011, the amounts generated under Article 136 of 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[9] and the amount referred to in Article 69(2a) of this Regulation shall not be taken into account in the EAFRD total contribution from which the minimum Community financial contribution per axis is calculated as provided for in paragraphs 1 and 2 of this Article.;

4. in Article 56 the following sentence is added:

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'The limitation in size for infrastructure shall not apply to the operations referred to in point (g) of Article 16a(1).';

5. Article 69 is hereby amended as follows:

(a) the following paragraph is inserted:

2a. The part of the amount referred to in paragraph 1 resulting from the increase of the global commitments as laid down by Council Decision 2006/493/EC of 19 June 2006 laying down the amount of Community support for rural development 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[(10)] as amended by Council Decision 2009/434/EC[(11)] shall be devoted to types of operations related to priorities laid down in Article 16a(1) of this Regulation.;

(b) paragraphs 5a and 5b are replaced by the following:

5a. An amount equal to the amounts resulting from the application of the compulsory modulation under Article 9(4) and Article 10(3) of Regulation (EC) No 73/2009 together with, as from 2011, the amounts generated under Article 136 of that Regulation shall be exclusively spent by Member States in the period from 1 January 2010 to 31 December 2015 as Community support under the current rural development programmes for operations of the types referred to in points (a) to (f) of Article 16a(1) of this Regulation.

For new Member States, as defined in Article 2(g) of Regulation (EC) No 73/2009, the period referred to in the first subparagraph of this Article shall be from 1 January 2013 to 31 December 2015.

The first two subparagraphs shall not apply to Bulgaria and Romania.

The Member States' share of the amount referred to in paragraph 2a shall be exclusively spent by Member States in the period from 1 January 2009 to 31 December 2015 as Community support under the current rural development programmes for operations of the types referred to in Article 16a(1).

5b If, at the closure of the programme, the actual amount of Community contribution spent on the operations referred to in Article 16a(1) is lower than the total of the amounts referred to in paragraph 5a of this Article, the difference shall be reimbursed by the Member State to the general budget of the European Communities up to the amount by which the total allocations available for operations other than those referred to in Article 16a(1) have been exceeded.

In addition, if, at the closure of the programme, the actual amount of Community contribution spent on the operations referred to in points (a) to (f) of Article 16a(1) is lower than the amount referred to in the first subparagraph of paragraph 5a of this Article, the difference shall be reimbursed by the Member State to the general budget of the European Communities up to the amount by which the amount of Community contribution spent on the operations referred to in point (g) of Article 16a(1) has exceeded the allocations available under the fourth subparagraph of