# Commission Regulation (EC) No 248/2007 of 8 March 2007 on measures concerning the Multi-annual Financing Agreements and the Annual Financing Agreements concluded under the Sapard programme and the transition from Sapard to rural development

## COMMISSION REGULATION (EC) No 248/2007

## of 8 March 2007

## on measures concerning the Multi-annual Financing Agreements and the Annual Financing Agreements concluded under the Sapard programme and the transition from Sapard to rural development

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 29 thereof,

Having regard to Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of Central and Eastern Europe in the pre-accession period[(1)], and in particular Article 12(2) thereof,

Whereas:

(1) Council Regulation (EC) No 1268/1999 introduced Community support for pre-accession measures for agriculture and rural development in the applicant countries of Central and Eastern Europe in the pre-accession period (the Sapard programme) including Bulgaria and Romania in particular.

(2) Article 29 of the Act of Accession of Bulgaria and Romania provides that where the period for multi-annual commitments made under the Sapard programme in relation to certain measures extends beyond the final permissible date for payments under Sapard, the outstanding commitments will be covered within the 2007-2013 rural development programme.

(3) The Sapard programme comprises several measures to be supported after accession by Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[(2)].

(4) To facilitate the transition between these two types of support, the period during which commitments can be made to beneficiaries under the Sapard programme should be specified.

(5) The conditions under which projects approved under Regulation (EC) No 1268/1999 but which can no longer be financed under that Regulation can be transferred to rural development programming should be specified.

(6) This Regulation is without prejudice to Commission Regulation (EC) No 1423/2006 of 26 September 2006 establishing a mechanism for appropriate measures in the field of agricultural spending in respect of Bulgaria and Romania[3].

(7) In accordance with the provisions of Article 12 of Commission Regulation (EC) No 2759/1999 of 22 December 1999 laying down rules for the application of Council Regulation (EC) No 1268/1999[4], an ex-post evaluation of the Sapard programme must be carried out. It has to be ensured that these evaluations may still be carried out and financed after 2006, beyond the period of eligibility under Sapard in accordance with Council Regulation (EC) No 1268/1999.

(8) Multi-annual Financing Agreements (MAFAs) and Annual Financing Agreements (AFAs) were concluded between the European Commission, representing the European Community, on the one hand and Bulgaria and Romania on the other.

(9) In areas falling within the scope of the Treaty establishing the European Community, the relationship between Bulgaria and Romania and the Community, as of 1 January 2007, when these States accede to the European Union, is governed by Community law. In principle, bilateral agreements, without any particular legal acts being necessary, continue to apply as far as they do not contradict obligatory Community law. In certain areas, the MAFAs and AFAs provide for rules which are different from Community law whilst not being contrary to any binding provisions. However, it is appropriate to foresee that in respect of Sapard the new Member States should, as far as possible, follow the same rules as those which apply to any other areas of Community law.

(10) It is therefore appropriate to provide for the continuation of the applicability of the MAFAs and AFAs subject to certain derogations and amendments. At the same time, certain provisions are no longer needed given the fact that the Community is no longer dealing with third countries but with Member States and that the new Member States will be directly submitted to provisions under Community law. Such MAFA provisions should therefore no longer apply. In order to ensure continuity in the application of the MAFAs and AFAs, these changes should apply from 1 January 2007.

(11) Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the Applicant Countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89[5] and Commission Regulation (EC) No 2222/2000 of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the Applicant Countries of Central and Eastern Europe in the pre-accession period[6] have been the legal bases for the Commission to confer the management of aid under the Sapard programme on implementing agencies in the Applicant Countries on a case-by-case basis. The MAFAs were concluded based on that possibility. However, in relation to Member States, Community law does not require a conferral of management procedure but an accreditation procedure at national level for paying agencies referred to in Article 6 of Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy[7]. The MAFAs provide for basically an identical accreditation procedure in their Article 4 of Section A of the Annex. With

regard to Member States there is, therefore, no more a need to provide for a conferral of the management of aid. Therefore, derogation from these provisions is appropriate.

(12) Multi-annual Financing Agreements (MAFAs) and Annual Financing Agreements (AFAs) were also concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia (the 2004 accession Member States) on the other.

(13) Provisions similar to those contained in this Regulation as regards the MAFAs and AFAs as regards Bulgaria and Romania were adopted in relation to the MAFAs and AFAs as regards the 2004 accession Member States in Commission Regulation (EC) No 1419/2004 of 4 August 2004 on the continuation of the application of the Multi-annual Financing Agreements and the Annual Financing Agreements concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia on the other, and providing for certain derogations from the Multi-annual Financing Agreements and from Council Regulation (EC) No 1266/1999 and Regulation (EC) No 2222/2000[8]. However these measures were adopted as measures to facilitate the transition from the Sapard programme to rural development and so expire on 30 April 2007.

(14) In the light of experience it has been established that these measures do not solely concern the transition from the Sapard programme to rural development but concern predominantly the finalisation of the programmes started under the Sapard programme for the 2004 accession Member States. Regulation (EC) No 1268/1999 states in its Article 1(1) that it remains applicable in this case.

(15) It is therefore appropriate to provide in this Regulation for the adoption of measures identical to those set out in Regulation (EC) No 1419/2004 in order to provide for the finalisation of the programmes started under the Sapard programme for the 2004 accession Member States, since these programmes are not yet finalised. These measures should apply once those contained in Regulation (EC) No 1419/2004 cease to apply, namely from 1 May 2007.

(16) According to Article 12(7) of Section A of the Annex of the MAFA the amount to be recovered in accordance with a conformity clearance Decision shall be deducted from the next application for payment to the Commission. Article 12(8) provides that the amount to be recovered in accordance with the conformity clearance Decision shall not be reallocated to the Programme. The application of both provisions would result in a double deduction of the amount from a Sapard allocation to a Beneficiary country. Therefore, the provision that this amount shall be deducted from the next application for payment to the Commission should be deleted.

(17) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development and the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EC) No 248/2007. (See end of Document for details)*

# CHAPTER I

# BULGARIA AND ROMANIA

## SECTION I

## Transition from Sapard to rural development

### *Article 1*

### End of contracting period under Regulation (EC) No 1268/1999

As regards Community funds relating to Regulation (EC) No 1268/1999, Bulgaria and Romania may continue to contract or enter into commitments with any beneficiary until the respective date that each contracts or enters into commitments for the first time under Regulation (EC) No 1698/2005. They shall inform Commission of this date.

### *Article 2*

### Financing of Sapard projects beyond the period of eligibility

1 Where the period for multi-annual commitments made under the Sapard programme in relation to afforestation of agricultural land, support for the establishment of producer groups or agri-environment schemes extends beyond the final permissible date for payments under Sapard, the outstanding commitments may be covered under the rural development programmes for the period 2007 to 2013 under Regulation (EC) No 1698/2005 and financed by the EAFRD provided that the rural development programme makes provision for this purpose.

2 Where Bulgaria or Romania apply paragraph 1, they shall notify the Commission, before the end of 2007, the amounts corresponding to appropriations committed.

3 The rules on eligibility of and checks on assistance under Regulation (EC) No 1268/1999 shall continue to apply.

### *Article 3*

### Expenditure relating to the ex-post evaluation of the Sapard programmes

Expenditure relating to the *ex-post* evaluations of the relevant Sapard programmes provided for in Article 12 of Regulation (EC) No 2759/1999 may be eligible under the technical assistance component of the rural development programmes for the period 2007 to 2013 under Regulation (EC) No 1698/2005 and financed by the EAFRD provided that the rural development programme makes provision for this purpose.

### *Article 4*

### Correlation of measures under the current and the new programming period

The correlation table for measures referred to in Articles 2 and 3 under Regulation (EC) No 1268/1999 and Regulation (EC) No 1698/2005 is set out in Annex I.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 248/2007. (See end of Document for details)*

SECTION II

**MAFAs and AFAs**

*Article 5*

**Continuation of the applicability of the MAFAs and the AFAs after Accession**

1 Without prejudice to the continuation of the validity of the Multi-annual Financing Agreements (hereinafter referred to as MAFAs) and the Annual Financing Agreements (hereinafter referred to as AFAs), as listed in Annex II, concluded between the European Commission representing the European Community on the one hand and Bulgaria and Romania on the other, these Agreements shall continue to apply subject to the provisions of this Regulation.

2 Articles 2 and 4 of the MAFAs shall cease to apply.

3 The following provisions of the Annex of the MAFAs shall cease to apply:

a Articles 1 and 3 of Section A; however, any references to these Articles in the MAFAs or AFAs shall be construed as referring to the national accreditation decision in accordance with Article 4 of Section A;

b Article 14, points 2.6 and 2.7 of Section A;

c Articles 2, 3, 4, 5, 6 and 8 of Section C; and

d Section G.

4 Article 12(2) of Regulation (EC) No 1266/1999 and Article 3 of Regulation (EC) No 2222/2000 shall no longer apply to Bulgaria and Romania with regard to the Sapard programme.

*Article 6*

**Derogations from MAFA provisions and from Regulation (EC) No 2222/2000**

By way of derogation from the last subparagraph of Article 4(7) and Article 5(4) of Section A of the Annex of the MAFAs and Article 5(4) of Regulation (EC) No 2222/2000, the Commission shall immediately be informed of any modifications in the implementation or paying arrangements of the SAPARD Agency after its accreditation.

CHAPTER II

**MAFAS AND AFAS AS REGARDS THE CZECH REPUBLIC, ESTONIA, HUNGARY, LATVIA, LITHUANIA, POLAND, SLOVAKIA AND SLOVENIA**

*Article 7*

**Continuation of the applicability of the MAFAs and the AFAs after Accession**

1 Without prejudice to the continuation of the validity of the Multi-annual Financing Agreements (hereinafter referred to as MAFAs) and the Annual Financing Agreements (hereinafter referred to as AFAs), as listed in Annex III, concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic,