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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

(OJ L 161, 26.6.1999, p. 87)

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►**M1**	Council Regulation (EC) No 2500/2001 of 17 December 2001	L 342	1	27.12.2001
►**M2**	Council Regulation (EC) No 696/2003 of 14 April 2003	L 99	24	17.4.2003
►**M3**	Council Regulation (EC) No 769/2004 of 21 April 2004	L 123	1	27.4.2004
►**M4**	Council Regulation (EC) No 2008/2004 of 16 November 2004	L 349	12	25.11.2004
►**M5**	Council Regulation (EC) No 2257/2004 of 20 December 2004	L 389	1	30.12.2004
►**M6**	Council Regulation (EC) No 2112/2005 of 21 November 2005	L 344	23	27.12.2005

Corrected by:

►**C1** Corrigendum, OJ L 244, 16.9.1999, p. 64 (1268/1999)

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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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

Having regard to the opinion of the Economic and Social Committee ([3]),

Having regard to the opinion of the Committee of the Regions ([4]),

(1) Whereas the conclusions of the European Council of 12 and 13 December 1997 provide for an enhanced pre-accession strategy for the applicant countries of central and eastern Europe and a specific pre-accession strategy for Cyprus;

(2) Whereas the conclusions of the European Council provide that the aid provided for in this Regulation be granted for the time being to the 10 applicant countries of central and eastern Europe;

(3) Whereas the Community has decided to provide special assistance in the form of pre-accession aid for the countries applying for accession in order to carry out action to support the current economic and social reform process in those countries and to prepare and facilitate the integration of their economies into the Community economy;

(4) Whereas assistance from the 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 together with assistance from the Community under Council Regulation 1267/1999 of 21 June 1999 establishing an Instrument for Structural Policies for Pre-accession ([5]) should be coordinated within the framework of Council Regulation 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 ([6]) and be subject to the conditional provisions of Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant countries in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships ([7]);

(5) Whereas paragraph 17 of the conclusions of the Luxembourg European Council of 12 and 13 December 1997 provides that financial support to the countries involved in the enlargement process will be based, in the allocation of aid, on the principle of equal treatment, independently of the time of accession, with particular attention being paid to countries with the greatest need;

(6) Whereas the Community pre-accession aid has to be decided in particular to resolve priority problems in adapting the economies of the applicant countries in a sustainable manner and facilitating the implementation by them of the *acquis communautaire*, focusing in particular on the common agricultural policy (CAP);

([1]) OJ C 175, 9.6.1998, p. 7 and OJ C 27, 2.2.1999, p. 18.
([2]) Opinion delivered on 6 May 1999 (not yet published in the Official Journal).
([3]) OJ C 101, 12.4.1999.
([4]) OJ C 93, 6.4.1999.
([5]) See page 73 of this Official Journal.
([6]) See page 68 of this Official Journal.
([7]) OJ L 85, 20.3.1998, p. 3.

▼B

(7) Whereas pre-accession aid for agriculture should follow the priorities of the reformed CAP; whereas such aid should be applied to priority areas to be defined for each country, such as the improvement of structures for processing agricultural and fishery products, distribution, quality control of food as well as veterinary and plant-health controls and the setting-up of producer groups; whereas it should also be possible to finance integrated rural development projects to support local initiatives and agri-environmental measures, to improve the efficiency of farms, to adapt infrastructure as well as measures which will accelerate structural reconversion;

(8) Whereas, in the agricultural sector, the Community support will be implemented in the form of multiannual programmes established in accordance with the guidelines and the principles of the operational programmes applied in the framework of structural policy in order to facilitate in the applicant countries the implementation of the principles and procedures in force;

(9) Whereas, in accordance with Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds [1], assistance can only be granted for any measure from one Community financial instrument within a given period, subject in the case of the European Investment Bank (EIB) to its own rules on the provision of assistance;

(10) Whereas Community funds should not replace funding available in each applicant country and whereas Community assistance constitutes a financial contribution to the completion of projects;

(11) Whereas pre-accession aid in the agricultural sector has to be granted in the form of a financial contribution and subject to the specific financial rules established by Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy [2];

(12) Whereas the allocation to applicant countries of resources fixed by the budget authority in the preamble of this instrument should take full account of national prosperity on the basis of gross domestic product, of the agricultural workforce, of utilised agricultural area and, if necessary, of specific territorial particularities;

(13) Whereas applicant countries should submit their plans as quickly as possible in order to avoid delaying the implementation of the pre-accession measures from 1 January 2000;

(14) Whereas the drawing-up of those programmes, their implementation and the follow-up mechanisms should comply with the specific Structural Fund rules and thus facilitate the transfer of the *acquis communautaire*;

(15) Whereas a detailed *ex-ante* assessment should be carried out before Community resources are commited in order to ensure that the programme complies with real needs, to permit flexibility in the implementation of Community intervention to take account of the relevant information and the first results of the measures, and to strengthen the monitoring and *ex-post* evaluation to ensure the effectiveness of the anticipated impact;

(16) Whereas provision should be made for a monitoring committee to assist the Commission with the follow-up to each programme;

(17) Whereas the necessary decisions should be adopted in accordance with the procedure laid down in Article 50(2) of Regulation (EC) No 1260/1999 and for specific financial items in accordance with the procedure laid down in Article 13 of Regulation (EC) No 1258/1999;

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[1] See page 1 of this Official Journal.
[2] OJ L 160, 26.6.1999, p. 103.

▼B

(18) Whereas reports should be submitted to the Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on progress achieved in the implementation of agricultural pre-accession aid;

(19) Whereas, during the transitional period (1 January 1999 to 31 December 2001) all reference to the euro should as a general rule be considered as a reference to the euro as a monetary unit, in accordance with the second sentence of Article 2, of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ([1]);

(20) Whereas the implementation of these measures will help to achieve the Community's aims; whereas the Treaty does not provide for the adoption of this Regulation powers other than those laid down in Article 308,

HAS ADOPTED THIS REGULATION:

TITLE 1

OBJECTIVES AND TYPES OF MEASURES

Article 1

Objectives

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1. This Regulation establishes the framework for Community support for sustainable agriculture and sustainable rural development for the pre-accession period for Bulgaria, Croatia and Romania. The Regulation shall also remain applicable for the finalisation of any of the programmes started under it in the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia prior to their accession to the European Union.

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2. Community support shall comply with the conditions laid down in the framework of accession partnerships and shall relate in particular to:

(a) contributing to the implementation of the *acquis communautaire* concerning the common agricultural policy and related policies;

(b) solving priority and specific problems for the sustainable adaptation of the agricultural sector and rural areas in the applicant countries.

Article 2

Measures

In accordance with the priorities defined by the applicant countries and as defined in Article 4(3), support for agriculture and rural development shall relate to one or more of the following measures, which shall be consistent with the relevant *acquis communautaire*:

— investments in agricultural holdings,

— improving the processing and marketing of agricultural and fishery products,

— improving the structures for quality, veterinary and plant-health controls, for the quality of foodstuffs and for consumer protection,

— agricultural production methods designed to protect the environment and maintain the countryside,

— development and diversification of economic activities, providing for multiple activities and alternative income,

— setting up farm relief and farm management services,

([1]) OJ L 139, 11.5.1998, p. 1.

▼B

— setting up producer groups,

— renovation and development of villages and the protection and conservation of the rural heritage,

— land improvement and reparcelling,

— establishment and updating of land registers,

— improvement of vocational training,

— development and improvement of rural infrastructure,

— agricultural water resources management,

— forestry, including afforestation of agricultural areas, investments in forest holdings owned by private forest owners and processing and marketing of forestry products,

— technical assistance for the measures covered by this Regulation, including studies to assist with the preparation and monitoring of the programme, information and publicity campaigns,

▼M4

— with regard to Bulgaria and Romania, preparation of rural communities to conceive and implement local rural development strategies, and integrated territorial rural development strategies of a pilot nature, within the limits set by Article 33f of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ([1]).

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TITLE II

ASSISTANCE

Article 3

Complementarity and technical assistance

1. The Community action shall complement corresponding national actions or contribute to these. It shall be established in close collaboration between the Commission, the applicant country, the competent authorities and bodies and the economic and social partners at the appropriate level. Such cooperation shall cover preparation, implementation including financing and appraisal, monitoring and evaluation of the measures.

2. In the framework of the technical assistance, the Commission shall take initiatives and measures to ensure that the Community measures supports the priority objectives referred to in Article 1 and bring added value to national initiatives.

▼M3

3. Natural and legal persons from Cyprus, Malta and Turkey as well as from the countries benefiting from assistance pursuant to Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia ([2]) may participate in invitations to tender and contracts on the same terms that apply to all natural and legal persons from the Member States coming within the scope of the Treaties and the beneficiary countries. ►M6 Eligibility for participation in tendering procedures under this Regulation shall be determined in accordance with the rules of eligibility and the derogations therefrom laid down herein, as well as

([1]) OJ L 160, 26.6.1999, p. 80. Regulation as last amended by Regulation (EC) No 583/2004 (OJ L 91, 30.3.2004, p. 1).

([2]) OJ L 306, 7.12.2000, p. 1. Regulation as amended by Regulation (EC) No 2415/2001 (OJ L 327, 13.12.2001, p. 3).

▼M3

in Council Regulation (EC) No 2112/2005 of 21 November 2005 on access to Community external assistance ([1]). ◄

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Article 4

Programming

1. Measures for agriculture and sustainable rural development under this Regulation shall be the subject of a plan to be drawn up at the most appropriate geographical level. The plan shall be prepared by the competent authorities designated by the applicant country and shall be submitted by those countries to the Commission after the competent authorities and organisations at the appropriate level have been consulted.

2. The plan shall cover a period of up to seven years from the year 2000 and subject to the application of Article 1(2), shall include:

— a quantified description of the current situation showing disparities, shortcomings and potential for development, the main results of previous operations undertaken with Community assistance, the financial resources deployed and the evaluation results available,

— a description of the strategy proposed, its quantified objectives, the priorities selected and the geographical scope,

— a prior appraisal showing the anticipated economic, environmental and social impact, including effects on employment,

— an indicative overall financial table summarising the national, the Community and, where appropriate, the private financial resources provided for and corresponding to each rural development priority adopted in the context of the plan, including, if necessary, measures financed by the EIB and other international financial instruments,

— an indicative financial profile for each year covered by the programming period for each source contributing to the programme,

— where appropriate, information on the need for any studies, training or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned,

— the names of the competent authorities and bodies responsible for carrying out the programme, including the paying agency,

— a definition of 'final beneficiaries', which may be organisations, or public or private undertakings responsible for conducting the operations. In cases where public aid is granted by other authorities entrusted there with by the applicant countries, the final beneficiaries shall be the institutions deciding the granting of the public aid,

— a description of the measures contemplated for implementing the plans, and in particular aid schemes, including the points necessary for assessing the rules of competition,

— provisions ensuring correct implementation of the programme, including monitoring and evaluation and the definition of quantified indicators for evaluation and the arrangements for controls and penalties,

— the results of consultations and provisions adopted for associating competent authorities and bodies as well as appropriate economic, social and environmental partners.

▼M5

By way of derogation from the first subparagraph, for Croatia the plan shall, under the same conditions as stipulated in the first subparagraph, cover a period of up to two years from the year 2005.

([1]) OJ L 344, 27.12.2005, p. 23.

▼B

3. In their plans, applicant countries shall ensure that priority is given to measures to improve market efficiency, quality and health standards and measures to create new employment in rural areas, in compliance with the provisions on the protection of the environment.

4. Unless otherwise agreed with the applicant country, the plan shall be submitted not later than six months after the entry into force of this Regulation.

5. On the basis of each applicant country's plan, a Programme for Agriculture and Rural Development shall be approved by the Commission in accordance with the procedure laid down in Article 50 (2) of Regulation (EC) No 1260/1999 within six months of submission of the plan, on condition that all the relevant information is available. In particular the Commission shall appraise the proposed plan to determine whether it is consistent with this Regulation.

6. The programme may, if necessary, be revised and amended as a result:

— of socioeconomic development, relevant new information and the results observed from the implementation of the actions concerned, including the results of monitoring and evaluation, as well as the need to adjust the amounts of aid available,

— in view of actions taken in the framework of the accession partnership and the national programme for the adoption of the *acquis communautaire*,

— of a reallocation of resources as laid down in Article 15.

Article 5

Ex-ante appraisal, monitoring and evaluation

1. In order to assess their effectiveness, support for measures included in the programme shall be subject to prior and mid-term appraisal, on-going monitoring and *ex-post* evaluation designed to appraise the success and impact with respect to the defined objectives. ►M5 However, with regard to Croatia, the respective programme shall not be subject to a mid-term appraisal. ◄

2. The Commission and the applicant country shall monitor the implementation of the programme. Such monitoring shall be carried out by way of jointly agreed procedures.

Monitoring shall be carried out by reference to specific physical environmental and financial indicators agreed and established beforehand.

Applicant countries shall submit annual progress reports to the Commission not later than the end of the first six months of the following year, which shall contain at least the information referred to in Article 37 of Regulation (EC) No 1260/1999.

3. A monitoring committee shall be established for each rural development programme in compliance with Article 35 of Regulation (EC) No 1260/1999.

Article 6

Compatibility

Measures granted Community support shall comply with the commitments adopted in the Accession Partnership and shall be consistent with the principles of the national programme for the adoption of the *acquis communautaire*.

Measures financed under this Regulation shall comply with the provisions of the Europe Agreements, including the provisions implementing those agreements with regard to State aids.

Measures financed under this Regulation shall comply with the objectives of the CAP, in particular those relating to common market organisations, and of Community structural measures. They shall not cause commercial disruption.

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TITLE III

FINANCIAL PROVISIONS

Article 7

Resources

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1. Community assistance under this Regulation shall be granted during the period from 2000 to 2006, with the exception of Community assistance for Croatia which shall be granted during the period from 2005 to 2006. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

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2. The Community financial contribution for carrying out the rural development programme shall be granted in the form of advances, part-financing and financing in accordance with the principles laid down in Article 30 of Regulation (EC) No 1260/1999.

Payments of financial assistance may take the form of advances for programme implementation and of payments against expenditure incurred.

3. The financial allocation to each applicant country for pre-accession aid under this instrument shall be based on the following objective criteria:

— farming population,

— agricultural area,

— gross domestic product (GDP) per capita in purchasing power,

— specific territorial situation.

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However, for Croatia the annual financial allocation shall be fixed separately.

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4. For the period referred to in Article 4(2), up to 2 % of the annual allocation of funds may be devoted to financing the measures taken on the initiative of the Commission for preliminary studies, exchange visits, evaluations and controls.

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Article 8

Rate of Community contribution and aid intensities

1. The Community contribution shall not exceed the ceiling of 75 % of the total eligible public expenditure.

However, that ceiling shall be:

(a) 80 % for measures referred to in the fourth, seventh, eleventh and sixteenth indents of Article 2, and any project concerning infrastructure;

(b) 85 % for relevant projects under any measure where the Commission determines that exceptional natural disasters have occurred;

(c) 100 % for the measure referred to in the fifteenth indent of Article 2 and in Article 7(4).

2. Public aid shall not exceed the ceiling of 50 % of the total eligible cost of the investment.

However, that ceiling shall be:

(a) 55 % for investments in agricultural holdings made by young farmers;

▼M4

(b) 60 % for investments in agricultural holdings in mountain areas;

(c) 65 % for investments in agricultural holdings in mountain areas made by young farmers;

(d) 75 % for investments referred to in paragraph 1(b);

(e) 100 % for investments in infrastructure not of a nature to generate substantial net revenue;

(f) 100 % for measures referred to under the sixteenth indent of Article 2.

In determining the rate of public aid for the purposes of this paragraph, account shall not be taken of national aid of a nature to facilitate access to credits granted without the benefit of any Community contribution provided under the present instrument.

In any case the Community contribution shall comply with the ceilings on rates of aid and cumulation laid down for State aid in the Europe Agreements.

3. The amount of the Community contribution shall be expressed in euro.

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Article 9

Financial control

1. The financial support shall comply with the principles laid down in Regulation (EC) No 1258/1999.

The Commission shall implement expenditure under this Regulation in accordance with the Financial Regulation applicable to the general budget of the European Communities on the basis of the financing memorandum to be drawn up between the Commission and the applicant country.

2. The Commission, in accordance with the procedure set out in Article 12, shall adopt the methods for managing the programme, the provisions for monitoring and checking its execution, the systems for preventing and checking irregularities and the procedures for recovering amounts unduly paid. These measures shall be adopted as a prerequisite to the approval of the programme as referred to in Article 4 (5).

3. Without prejudice to checks carried out by beneficiary countries, the Commission and the Court of Auditors may, through their own agents or duly authorised representatives, carry out on-the-spot technical or financial audits, including sample checks and final audits.

Article 10

Reduction, suspension and cancellation of aid

1. If the implementation of a measure does not appear to justify any part of the finance allocated to it, the Commission shall carry out an appropriate examination of the case, in particular by requesting the applicant country or the authorities designated by it to implement the measure to make their comments within a specified period.

2. Following that examination, the Commission may reduce or suspend the aid for the measure concerned if the examination confirms the existence of an irregularity or of an important modification which affects the nature or the conditions of implementation of the measure and for which Commission approval was not obtained.

3. Any amount recovered by way of overpayment shall be transferred to the Commission. The amounts not transferred shall be subject to interest on arrears in accordance with the provisions of the Financial Regulation.

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Article 11

The Commission shall allocate the available resources to the applicant countries for the implementation of Article 7(2). Within three months of the decision to make a country eligible for assistance under this Regulation, the Commission shall communicate its decision on the indicative financial allocation for the ongoing financial perspective to that applicant country.

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TITLE IV

IMPLEMENTING RULES

Article 12

1. The Commission shall adopt detailed rules for the implementation of this Regulation in accordance with the procedure laid down in Article 50(2) of Regulation (EC) No 1260/1999.

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2. The Commission shall adopt the detailed financial rules in accordance with the procedure laid down in Article 13 of Regulation (EC) No 1258/1999. They shall relate, in particular, to appropriate provisions to ensure compliance with budgetary discipline.

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TITLE V

OTHER PROVISIONS

Article 13

Reports

The Commission shall present an annual report on the Community support granted under this Regulation to the European Parliament, to the Council, the Economic and Social Committee and to the Committee of the Regions.

In such reports the Commission shall outline in particular the progress made towards achieving the objectives set out in Article 1.

TITLE VI

FINAL PROVISIONS

Article 14

Information and publicity

1. The programmes set out in Article 4(5) shall be the subject of appropriate publicity in the applicant countries.

2. The publicity shall entail in particular:

— informing potential beneficiaries and professional organisations of the assistance available,

— informing the general public of the Community's role in relation to the aid.

The proposals contemplated and the measures adopted to that end shall be communicated to the Commission.

Article 15

On accession to the European Union, a country shall lose its entitlement to support under this Regulation. Resources made available as a result of an applicant country acceding to the European Union shall be reallocated to other applicant countries listed in Article 1(1). Reallocation shall be based on applicant countries' need and capacity for absorbing assistance and on the criteria laid down in Article 7(3).

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The Council, acting by qualified majority on a proposal from the Commission, shall take a decision outlining the general approach for reallocation.

In the light of the decision referred to in the second paragraph by the Council, the Commission shall decide on the reallocation of available resources among the other beneficiaries in accordance with the procedure laid down in Article 12(1).

Article 16

Entry into force

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

It shall apply from 1 January 2000.

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