



European
Commission

**Direct payments before 2014
Report on the application of paragraph 5 of Article 69
of Regulation (EC) No 73/2009**

*Agriculture
and Rural
Development*

The present note is drafted in the context of the optional implementation of specific support laid down in Articles 68-72 of Regulation (EC) No 73/2009, in relation with the rules governing the financing of the scheme referred to in Article 69 of the same Regulation. The purpose of the note is to report on the way the concerned Member States have made use of the derogation laid down in Article 69(5) of that Regulation allowing using an increased percentage of the national ceiling for financing certain specific support measures.

1. LEGAL FRAMEWORK

Pursuant to Article 69(4) of Regulation (EC) No 73/2009¹, support provided for in points (i), (ii), (iii), (iv), and paragraphs 1(b) and (e) of Article 68 shall be limited to 3.5% of the national ceilings referred to in Article 40, to be used in particular for the funding of the measures referred to in Article 68(1)(b) in the dairy sector².

Pursuant to paragraph 5 of that Article, by way of derogation from paragraph 4, during calendar years 2010-2014,

- in those Member States which granted support with regard to suckler cows in accordance with Article 69 of Regulation (EC) No 1782/2003³ while not having applied the option provided for in Article 68(2)(a)(i) of the Regulation, the limit set out in paragraph 4 shall be set at 6% of their national ceiling referred to in Article 40;
- in Member States where more than 60% of their milk production takes place north of the 62nd parallel, that limit shall be set at 10% of their national ceiling referred to in Article 40.

However, any support exceeding 3.5% of the national ceiling referred to in Article 40 of Regulation (EC) No 73/2009 shall be used exclusively for the funding of measures referred to in Article 68(1)(b) of this Regulation in the dairy and beef and veal sectors.

The third subparagraph of Article 69(5) of Regulation (EC) No 73/2009 provides that the Commission shall present to the Council a report on the application of this paragraph by 31 December 2013.

2. IMPLEMENTATION OF THE DEROGATION IN TWO MEMBER STATES

The conditions fixed for applying the derogation referred to in Article 69(5) of Regulation (EC) No 73/2009 have been met by Slovenia and Finland. Both Member States have implemented this provision.

Slovenia was entitled to apply the limit set at 6% of their national ceiling, while Finland was entitled to apply the limit set at 10% of their national ceiling.

Article 51 of Regulation (EC) No 1120/2009⁴ provides that the Member States shall notify the Commission of several information concerning the implementation of the direct payments. Pursuant to paragraph 4 of that Article, the Member States shall notify, by 1 October 2012 at the latest, a report on the specific support measures implemented in 2009, 2010 and 2011, their impact on their objectives and any problem encountered.

¹ O.J. L 30, 31.1.2009, p. 16.

² That percentage was set at 6.5 by Regulation (EU) No 1310/2013 for calendar year 2014

³ O.J. L 270, 21.10.2003, p. 1.

⁴ O.J. L 316, 2.12.2009, p. 1.

In this context, Slovenia and Finland provided the Commission with information on the implementation of specific support including on the derogation referred to in Article 69(5) of Regulation (EC) No 73/2009.

Pursuant to Article 68(8) of Regulation (EC) No 73/2009, by 1 August 2011, the Member States that took the decision referred to in Article 69(1) may review it and decide, from 2012, to modify the amounts for the funding of the support within the limits of Article 69 or put an end to the application of specific support.

2.1 Implementation of the derogation in Slovenia

2.1.1. National ceiling

The national ceiling referred to in Article 4 of Regulation (EC) No 73/2009 as fixed for Slovenia in Annex II of the Regulation amounts to:

- 2010: EUR 103 394 000
- 2011: EUR 117 423 000
- 2012: EUR 131 575 000
- 2013: EUR 144 274 000
- 2014: EUR 138 980 000

2.1.2. Notified measures

Slovenia has notified and implemented three specific support measures, two of which, targeting beef and veal and dairy sectors, were subject to the 3.5% ceiling laid down in Article 69(4) of the Regulation and to the related derogation referred to in Article 69(5) of the same Regulation:

- Support for extensive rearing of female bovine animals, under Article 68(1)(b),
- Dairy payment for agricultural holdings in mountain areas and on steep slopes, under Article 68(1)(b).

2.1.3. Financing of the measures

The total envelope allocated by Slovenia to the two support measures amounted to (see table below):

- EUR 6.036.870 in 2010
- EUR 6.899.280 in 2011
- EUR 7.753.950 in 2012
- EUR 8.624.100 in 2013
- EUR 8.308.000 in 2014

Those amounts represent less than 6% of the annual national ceiling (Annex II) over the period

Annual budgetary ceilings were fixed by the Commission accordingly⁵.

⁵ Regulations (EU) No 745/2010, 680/2011, 564/2012, 914/2013, 1044/2014

**Total envelope allocated to the measures subject to the 3.5%
(6.5% in 2014) ceiling**

Calendar year	Art. 68(1)(b) Female bovines		Art 68(1)(b) Dairy payment		% total Annex II (max. 6%)
	amount	% Annex II	Amount	% Annex II	
2010	4 636 870	4.48	1 400 000	1.35	5.83
2011	5 299 280	4.51	1 600 000	1.36	5.87
2012	5 953 950	4.52	1 800 000	1.37	5.89
2013	6 624 100	4.59	2 000 000	1.39	5.98
2014	6 381 000	4.59	1 927 000	1.39	5.98

77% of the envelope was allocated to the measure "support for extensive rearing of female bovine animals".

The implementation of that measure has been motivated by the impossibility for Slovenia to continue granting both the EU "beef special premium" and "suckler cow premium" due to the options of partial implementation of the single payment scheme provided for in Article 68(2) of Regulation (EC) No 1782/2003 and continued under Article 53 of Regulation (EC) No 73/2009.

2.1.4. Exclusive use of the derogation for dairy and beef and veal sectors

The exclusive use of the additional percentage of funding (exceeding 3.5%) resulting from the derogation for the funding of support in the dairy and beef and veal sectors referred to in the second subparagraph of Article 69(5) of Regulation (EC) No 73/2009 has been ensured by Slovenia as 100% of the annual envelope was dedicated to support under Article 68(1)(b) in those sectors.

2.1.5. Level of execution: amounts actually paid, percentage of the national ceiling

The available data regarding the payments actually granted per measure as communicated by Slovenia (see tables below) show that the uptake of the two measures increased regularly over the period in terms of amounts paid (+38% between 2010 and 2014) while the number of beneficiaries slightly increased by 5% in the case of beef and veal and decreased by 12% in the case of dairy payment.

Payments actually granted per measure and % of Annex II

Calendar year	Art. 68(1)(b) Female bovines		% of Annex II	Art. 68(1)(b) Dairy payment		% of Annex II
	Amount paid	Number beneficiaries		Amount paid	Number beneficiaries	
2010	4.577.869	15 682	4.43	1.378.002	1 899	1.33
2011	5.277.715	15 715	4.49	1.578.226	1 738	1.34
2012	5.988.410	15 431	4.55	1.778.232	1 767	1.35
2013	6.500.317	16 643	4.5	1.941.800	1 708	1.35
2014	6.337.847	16 422	4.56	1.882.502	1 670	1.35

The overall level of execution over the period was high, between 98 and 100% of the annual budgetary ceiling fixed by the Commission.

Total paid + % of ceiling + % of Annex II

Calendar year	Total paid	Budgetary ceiling	Execution of the ceiling	Annex II	% of Annex II
2010	5.955.871	6.037.000	98.7%	103.394.000	5.8
2011	6.855.941	6.899.000	99.4%	117.423.000	5.8
2012	7.766.642	7.754.000	100%	131.575.000	5.9
2013	8.442.117	8.624.000	98%	144.274.000	5.9
2014	8.220.349	8.308.000	100%	138.980.000	5.9

Slovenia has not made use of the review clause laid down in Article 68(8) of Regulation (EC) No 73/2009 and has maintained the same support measures over the period.

2.2 Implementation of the derogation in Finland

2.2.1. National ceiling

The national ceiling referred to in Article 4 of Regulation (EC) No 73/2009 as fixed for Finland in Annex II of the Regulation amounts to:

- 2010: EUR 565 520 000
- 2011: EUR 565 823 000
- 2012: EUR 570 548 000
- 2013: EUR 570 548 000
- 2014: EUR 523 247 000

2.2.2. Notified measures

Finland notified and implemented six different specific support measures, all subject to the 3.5% ceiling laid down in Article 69(4) of the Regulation and to the related derogation referred to in Article 69(5) of the same Regulation. Two of them targeted beef and veal and dairy sectors:

- Support for arable crops under Article 72 of Regulation (EC) No 73/2009 (ex-Article 69 of Regulation (EC) No 1782/2009) in 2010
- Support for protein and oil seeds crops under Article 68(1)(a)(i) from 2011
- Support for starch potato under Article 68(1)(a)(i) from 2012
- Quality premium for slaughtered lambs under Article 68(1)(a)(ii) from 2011
- Support to beef and veal production under Article 68(1)(b)
- Dairy cow premium under Article 68(1)(b)

2.2.3. Financing of the measures

The total envelope allocated by Finland to those measures amounted to (see table below):

- EUR 45 139 800, i.e. 7,98% of the national ceiling (Annex II) in 2010
- EUR 47 554 800, i.e. 8,4% in 2011
- EUR 52 483 000, i.e. 9,2% in 2012
- EUR 57 054 800, i.e. 10% in 2013
- EUR 52 324 517, i.e. 10% in 2014

Annual budgetary ceilings were fixed by the Commission accordingly (see foot note 5).

**Total envelope allocated to the measures subject to the 3.5%
(6.5% in 2014) ceiling**

Calendar year	Art. 72 (2010), then Art. 68(1)(a)(i) Starch potato/oilseeds		Art. 68(1)(a)(ii) Sheep		Art. 68(1)(b) beef/veal		Art. 68(1)(b) dairy		% total Annex II (max 10%)
	Amount	% Annex II	Amount	% Annex II	Amount	% Annex II	Amount	% Annex II	
2010	5.840.000	1.03	0		36.654.800	6.48	2.645.000	0.47	7.98
2011	6.500.000	1.15	900.000	0.16	36.654.800	6.48	3.500.000	0.62	8.41
2012	10.000.000	1.75	900.000	0.16	36.654.800	6.42	4.928.200	0.86	9.19
2013	10.000.000	1.75	900.000	0.16	36.654.800	6.42	9.500.000	1.67	10
2014	9.170.923	1.75	825.373	0.16	33.615.834	6.42	8.712.377	1.67	10

The support for beef and veal together with dairy under Article 68(1)(b) relating to economic vulnerability represents in average 80% of the envelope allocated each year to the six measures. However, the share of the beef and veal support decreased from 81% to 64% of the total envelope between 2010 and 2014 while the share of the dairy support increased from 5.9% to 16.6% over the period. The share of the environment-based support under Article 68(1)(a)(i) increased from 13.7% to 17.5% over the same period. The share of the sheep support slightly decreased from 1.9% to 1.6%.

Finland has made application of the possibility laid down in Article 72(3) of Regulation (EC) No 73/2009 to continue implementing support measures already in force under Article 69 of Regulation (EC) No 1782/2003 during a transitional period of maximum 3 years. This possibility was used for arable crops during the year 2010.

Finland made use of the review clause in 2011 in view of introducing two new support measures for potato starch and oilseeds under Article 68(1)(a)(i) and a support for quality of lamb carcasses under Article 68(1)(a)(ii).

Again in 2012, Finland decided to amend their initial decision concerning the financing of the dairy cow premium for increasing the amount allocated to that measure by substituting the EU financing through Article 68 of Regulation (EC) No 73/2009 to a transitional state aid provided for in Article 182(7) of Regulation (EC) No 1234/2007 (single CMO).

2.2.4. Exclusive use of the derogation for dairy and beef and veal sectors

In 2010 and 2011, Finland only used around 8% of its national ceiling. This percentage was increased up to 9% in 2012 and up to the maximum of 10% in 2013 and 2014. The increase as from 2013 resulted from the decision to review the way of financing the dairy support by replacing a state aid by EU funding under Article 68⁶.

The exclusive use of the additional percentage of funding (exceeding 3.5%) resulting from the derogation for the funding of support in the dairy and beef and veal sectors referred to in the second subparagraph of Article 69(5) of Regulation (EC) No 73/2009 has been ensured by Finland as less than 2% of the total amount allocated each year to the six measures referred to in point 2.2.3. was used for financing the measures not subject to this

⁶ To be noted that the decision to make full use of the derogation laid down in Article 69(5) from 2013 allowed Finland to be entitled afterwards to use a higher percentage of its national ceiling (more than 13% upon Commission approval) for financing the voluntary coupled support scheme in force from 2015 onwards.

requirement (potato starch, oilseeds and sheep) while the part of the support exceeding 3.5% was entirely dedicated to the financing of support in the dairy and beef and veal sectors under Article 68(1)(b).

2.2.5. Level of execution: amounts actually paid, percentage of the national ceiling.

The available data regarding the payments actually granted as communicated by Finland (see tables below) show that the uptake is different depending on the measures: the amounts paid increased over the period for all the measures (particularly for dairy: +250%) except for beef and veal (-2%). They remained almost stable in terms of number of beneficiaries except for the environment-based support (-32%).

Payments actually granted and % of Annex II per measure (1)

Calendar Year	Art. 72 (2010) and 68(1)(a)(i) Starch potato/oilseeds		% of Annex II	Art. 68(1)(a)(ii) sheep		% of Annex II
	Amount paid	Number beneficiaries		Amount paid	Number beneficiaries	
2010	5.307.526	11 241	0.94	0	0	0
2011	6.524.547	7 501	1.15	789.854	661	0.14
2012	9.035.787	6 248	1.58	821.082	695	0.14
2013	8.750.619	5 046	1.53	804.872	737	0.14
2014	9.071.782	4 723	1.73	805.753	783	0.15

Payments actually granted and % of Annex II per measure (2)

Calendar Year	Art. 68(1)(b) beef and veal		% of Annex II	Art. 68(1)(b) dairy		% of Annex II
	Amount paid	Number beneficiaries		Amount paid	Number beneficiaries	
2010	33.528.062	8 844	5.93	2.424.007	2 403	0.43
2011	33.257.185	8 650	5.88	3.172.241	2 298	0.56
2012	32.847.680	8 252	5.76	4.413.451	2 158	0.77
2013	31.916.864	7 959	5.59	8.281.207	2 041	1.45
2014	32.919.738	7 939	6.29	8.540.519	1 911	1.63

The overall level of execution has been between 87 and 98% of the annual budgetary ceiling fixed by the Commission.

Total paid + % of ceiling + % of Annex II

Calendar year	Total paid	Budgetary ceiling	Execution of the ceiling	Annex II	Total % of Annex II
2010	41.259.595	45.140.000	91.4%	565.520.000	7.3
2011	43.743.827	47.555.000	92%	565.823.000	7.8
2012	47.118.000	52.483.000	89.8%	570.548.000	8.3
2013	49.753.562	57.055.000	87.2%	570.548.000	8.7
2014	51.337.792	52 325 000	98%	523.247.000	9.8

3. CONCLUSION

3.1. Use of the derogation

Two Member States have made full use of the derogation laid down in Article 69(5) of Regulation (EC) No 73/2009.

Slovenia roughly used the same proportion of the derogation each year of the period (in average 5.9% of the annual national ceiling, within the 6% allowed). It is worth mentioning that the increase of the maximum percentage of the national ceiling to be used (from 3.5 to 6.5%) for the year 2014 has made the derogation obsolete for Slovenia as all Member States were entitled to use up to 6.5% in that year.

Finland did not use the same proportion of the derogation each year of the period: in 2010 and 2011, they only used around 8% of the annual national ceiling. This percentage was increased to 9% in 2012 as a consequence of the decision to introduce a new measure and up to the allowed maximum of 10% in 2013 and 2014 as a consequence of the decision to change the way of financing the dairy support by modifying the combination state aid-Article 68 financing.

3.2. Exclusive use of the derogation for dairy and beef and veal sectors

Both Slovenia and Finland complied with the requirement laid down in the second subparagraph of Article 69(5) of Regulation (EC) No 73/2009. The support exceeding 3.5% of the national ceiling was used exclusively for the funding of support according to Article 68(1)(b) in the dairy and beef and veal sectors.

3.3. Level of execution

Even if the level of execution of the payments over the period 2010-2014 was slightly higher in Slovenia (between 98-100% of the annual budgetary ceiling) than in Finland (87-98%), the overall high level of amounts paid can be considered as an indication that the support as targeted by the two Member States corresponded to real needs.