

THE NEW EUROPEAN RURAL DEVELOPMENT REGULATION: IMPLEMENTATION IN FRANCE

*Luc Bodiguel*¹

I. Introduction	7
II. Financing, Control and Management Modalities	9
A. Co-Financing	9
B. Strict Control and Management Organization	10
III. French Rural Development Measures for 2007 to 2013	11
IV. Focus on the French Agri-Environmental Scheme	13
V. Conclusion	15
Annex 1- Common Agricultural Policy	17
Annex 2- Procedure set up by Council Regulation (EC) No. 1698/03	17
Annex 3- French rural development schemes	18

I. INTRODUCTION

The Common Agricultural Policy (CAP) allocates aid to farmers following two pillars in order to support the economic, social, and environmental functions of agriculture (multifunctionality of agriculture). The first pillar involves government subsidies to the agricultural market² while the second pillar provides state aids for rural development.³

This second pillar is governed by Council Regulation No. 1698/2005.⁴ This regulation follows a long European political tradition. It comes from the

1. Researcher at the National Center of the Scientific Research (CNRS), Professor in Agricultural, Environmental and Contract Law in Masters of the University of Nantes and University of Angers (Faculty of law). Institute: "Droit et changement social" (DCS), UMR CNRS / Université de Nantes 3128.

2. Council Regulation (EC) No. 1782/03, O.J. L 270/1 (2003).

3. *Id.* at 3 (This second pillar establishes that savings from reductions in direct aid payments between 2005 and 2012 are to be applied toward rural development efforts.).

4. See Council Regulation (EC) No. 1698/05, O.J. L 277/1 (2005). See Commission Regulation (EC) No. 1974/06, O.J. L 368/15 (2006) (establishing rules on support for rural development under Council Regulation No. 1698/2005); Commission Regulation (EC) No. 1975/06, O.J. L 368/74 (2006) (setting forth detailed implementation rules for control procedures and cross-compliance in rural development).

structural measures of the 1970s and 1980s,⁵ from the complementary measures of the CAP in 1992,⁶ and from the first rural development Regulation in 1999.⁷

Since 1999, the rural development regulation transcends the objectives of the CAP and the European regional⁸ and environmental policies.⁹ However, with this new rural development regulation, European institutions want to integrate in the CAP the new sustainable development principles which have been promoted since the European Committee in Göteborg in 2001.

This European reform has existed since 2005, yet, the French national implementation was only set up in 2007. In accordance with the European procedure,¹⁰ and with the European strategic guidelines, the French government chose to implement the rural development regulation in accordance with six programs¹¹ in order to adapt the new European regulation to the geographic and cultural specificities of the varying French territories. This goal can also be observed in the application of each French program.

1. Hexagonal Rural Development Program applicable to Metropolitan France (Programme de Développement Rural Hexagonal (PDRH));
2. Regional Rural Development Program applicable to Corsica (Programme de Développement Rural Corsica (PDRC));
3. Regional Rural Development Program applicable to Guadeloupe (Programme de Développement Rural Guadeloupe);
4. Regional Rural Development Program applicable to Martinique (Programme de Développement Rural Martinique);

5. Council Directive (EEC) No. 276/75 O.J. L 128/1 (1975) (Legislation on mountain hill farming and farming in other less favorable areas.); Council Regulation (EEC) No. 797/85, O.J. L 93/1 (1985) (providing regulations for improving agricultural structure efficiency).

6. Council Regulation (EEC) No. 2078/92, O.J. L 215/85 (1992) (providing regulations on agriculture production methods compliance with protection of the environment and countryside).

7. Council Regulation (EC) No. 1257/99, O.J. L 160/80 (1999) (regulation on support for rural development); LUC BODIGUEL, *L'ENTREPRISE RURALE: ENTRE ACTIVITÉS ÉCONOMIQUES ET TERRITOIRE RURAL* 478 (2002).

8. Council Regulation (EC) No. 1698/05, O.J. L 277/1 (2005) (Article 3 sets forth the goals on support for rural development by the European Agricultural Fund for Rural Development.).

9. *Id.* at 2, 38-40 (Paragraphs 11 and 15 of the preamble set forth the environmental concerns, while the Annex establishes the amounts and rates of support available.); Council Decision (EC) No. 144/06, O.J. L 55/20, 28-29 Annex 3.6 (2006).

10. *See infra* Annex 1.

11. Ministère de l'Agriculture et de la Pêche, *La Programmation Française de Développement Rural*, (Dec. 20, 2007), <http://agriculture.gouv.fr/sections/thematiques/europe-international/la-programmation-de-developpement-rural-2007-2013/la-programmation-francaise-de-developpement-rural>.

2008]

European Rural Development Regulation in France

9

5. Regional Rural Development Program applicable to Guyana (Programme de Développement Rural Guyana);
6. Regional Rural Development Program applicable to Reunion (Programme de Développement Rural Reunion).

These programs were approved by the European Commission in July 2007.¹²

With this legal background, the aim of this study is to give a comprehensive and general overview of the new French rural development payment system. To reach that end, I will follow three axes of reflection:

1. Quick information on French financial, control and management choices;
2. The main ideas on French measures for rural development; and
3. Focus on Agri-environmental measures.

II. FINANCING, CONTROL AND MANAGEMENT MODALITIES

A. Co-Financing

Rural development funding comes from two different sources: the European Agricultural Fund for Rural Development¹³ and French funds. In other words, the rural development subsidies farmers are able to apply for are co-financed by Europe and France. Generally, each institution gives fifty percent of the state aid, but sometimes Europe contributes up to fifty-five percent.

In accordance with this co-financing system, the European Union will give about six and one half billion Euros over seven years, while the French government will allocate more than five and one half billion Euros.¹⁴ In total, around eight billion Euros per year will be allocated by the European Union to rural development schemes:

Year	2007	2008	2009	2010	2011	2012	2013	Total
€	895 541 833	871 859 146	807 172 939	808 725 155	820 778 147	804 205 557	718 782 332	5 727 065 109

12. *Id.*

13. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 28, tit. V, art. 70 (2005) (setting forth the contribution rates by the European Agricultural Fund for Rural Development).

14. See Implementation and Vision of Common Agricultural Policy: CAP in 27 EU Member States, France, www.rlg.nl/cap/france.html#8 (showing that the regional budgets in France are comprised of 38% EU funding and 34% National funds for the 2007-2013).

The French government has dispatched the European rural development funding following the axis of the European rural development regulation.¹⁵ We can observe that competitiveness and environmental state aids are the most important, and that rural settlement subsidies are quite low¹⁶:

Axis	Total public spending	Rate for co-financement	Total FEADER
Axis 1 Competitiveness	3 921 536 722	50%	1 960 768 361
Axis 2 Environment and Countryside	5 599 158 800	55%	3 079 537 339
Axis 3 Diversification and Quality of Life	696 861 816	50%	348 430 908
Axis 4 Area-based Local Development Strategies (Leader)	520 597 273	55%	286 328 500
Technical Assistance	104 000 000	50%	52 000 000
Total	10 842 154 611	52.82%	5 727 065 109

The European financial part is different following the French programs¹⁷:

Programme de Développement Rural Hexagonal (PDRH)	5.3 billion Euros
Programme de Développement Rural Corsica (PDRC)	83 millions Euros
4 Oversea Regional Rural Development Programs	631 millions Euros

B. *Strict Control and Management Organization*

As the subsidy system is very complex, and financing is quite important, the European Union requires a strict control and evaluation policy.¹⁸ The Euro-

15. MINISTÈRE DE L'AGRICULTURE ET DE LA PÊCHE, PROGRAMME DE DEVELOPPEMENT RURAL HEXAGONAL 2007-2013 (2007), <http://www.una-leader.org/leader/IMG/pdf/pdrhv6.pdf>.

16. *See generally id.* (providing an in-depth description of the four Axis listed).

17. *See generally id.*

18. *See* Council Regulation (EC) No. 1698/05, O.J. L 277/1, 30-34, tit. VI-VII, 2005 (2005) (providing the monitoring and evaluation framework).

pean Commission supervises management and control,¹⁹ but Member States are “responsible for ensuring that the systems function effectively throughout the programme period.”²⁰

With this background, two categories of rules have been established by the European Commission and French government: a “management and control” system²¹ and a “common monitoring and evaluation framework.”²²

In France, the Ministry for Agriculture and Fishing, which is the “managing authority,” is “responsible for managing and implementing the programme in an efficient, effective and correct way.”²³ It is helped by the Monitoring Committee, which is in charge of the rural development national strategy plan, the hexagonal rural development program, the regional aspects of the rural development program and the European regional policies.²⁴ The Ministry decided to give to the National Center for farm settlement (Centre National pour l’Aménagement des Structures des Exploitations Agricoles (CNASEA)) the responsibility of rural development payment (“paying agency”) under the control of the “certifying body.”²⁵ A coordination organization has also been set up in order to coordinate the national and European levels.²⁶

III. FRENCH RURAL DEVELOPMENT MEASURES FOR 2007 TO 2013

Following Regulation No. 1698/03, the French rural development program provides forty one sub-measures/schemes split up into thirteen classes of schemes which are brought together in four axes:

- Axis 1: Competitiveness;
- Axis 2: Environment and countryside;
- Axis 3: Diversification and quality of life;
- Axis 4: Area-based local development strategies (leader).

19. *Id.*

20. *Id.* at 30.

21. *Id.* at 30-31 (Articles 74 and 75 discuss the managing authority).

22. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 32, tit. VII, ch. 1, art. 80 (2005); MINISTÈRE DE L’AGRICULTURE ET DE LA PÊCHE, *supra* note 15, at 348.

23. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 30, tit. VI, ch. 1, art. 75 (2005); *see* MINISTÈRE DE L’AGRICULTURE ET DE LA PÊCHE, *supra* note 15, at 340-42.

24. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 32, tit. VII, ch. 1, art. 78 (2005).

25. *Id.* at 30, tit. VI, ch. 1, art. 74 (Articles 6 and 7 of Council Regulation (EC) No. 1290/05 define “paying agency” and “certifying body.”); *see* MINISTÈRE DE L’AGRICULTURE ET DE LA PÊCHE, *supra* note 15, at 343-44.

26. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 9, tit. I, ch. 3, art. 6, (2005).

Every sub-scheme cannot be analyzed here. Thus, instead of making an inventory, it seems more interesting to point out the three main ideas which emerge from the study of the French rural development schemes.²⁷

The first main idea is focused on the beneficiaries of rural development subsidies. As is expected from an agricultural act, generally farmers and foresters are the only ones who benefit from French measures for rural development. Thus, only farmers can apply for subsidies based on the “Livestock buildings modernization plan,” which has the goal of reducing production costs, diversifying activities, and/or improving the quality of products, sanitary conditions, animal wellbeing or work conditions.²⁸ Equally, the Vegetable Plan for Environment, the Food Quality Scheme, and the natural handicap payments in mountain areas and in other areas with handicaps are reserved strictly for farmers.²⁹ But, sometimes, individuals who are neither farmers nor foresters can get money from the French rural development program. This occurs when a local authority – such as property syndicates, public establishments, water trade unions or local public authorities – manages a rural development project in order to improve water stock, water management or land settlement. Members of the food industry can also apply for state investment aid if they are micro, small or medium-sized agricultural food companies, and if they respect different requirements: such as managing an innovative project which might develop new markets; improving a technical process in an environmentally friendly meaning; and going beyond the relevant mandatory requirements.³⁰ Also, micro, small, and medium-sized companies which operate in rural areas, like small traders, artisans, horse riding clubs or tourist activities may have investment aid for installation and transmission.³¹ Nevertheless, state payments for those kinds of beneficiaries are low and marginal.

Second, in accordance with European Regulations, French rural law encourages specific legal tools, such as tender and contract. It’s a new trend in France, as the government use to refuse selection a priori, and preferred a unila-

27. *Id.* at 14-27. (A description of the different schemes are set forth in Annex 3.).

28. *See id.* at 1-7.

29. *See generally id.* (discussing the various proposed programs for European farmers. For example, the aims of the Vegetable Plan for Environment are reduction of pollution (fertilizers), protection of water and biodiversity, fight against erosion, energy saving in greenhouses. The aims of the Food Quality Scheme are to support the owners who adhere to identification signs (label, geographic protection, organic farms); annual financial incentive for five years. Also – in reference to the natural handicap payments – these payments are granted annually per hectare of the utilized agricultural area.).

30. *Id.*

31. *Id.*

teral decision. For example, the French agri-environmental payment system appears to be a good illustration.³²

Finally, the French government has introduced two very important provisions, together with the rural development program following European requirements. On one hand, a farmer receiving direct payments must respect the statutory management provisions in the following areas: public, animal and plant health, environment, and animal welfare.³³ In other words, they have to observe the cross-compliance principle which is strictly implemented when a farmer is entitled to direct payment based on the French agri-environmental scheme. On the other hand, in order to respect the World Trade Organization Agreement on Agriculture, payments should only compensate a farmers' additional costs and loss of income involved in complying with the government program.³⁴ Thus, if a farmer concludes a contract in which he has to use less phytosanitary products to follow the organic specification, he cannot get fees, but only compensation payment for his agri-environmental engagement. In the same direction, if he applies for natural handicap payments in mountain areas, or other areas with handicaps, he can get a compensation linked to the handicap for agricultural production in the area concerned.³⁵

IV. FOCUS ON THE FRENCH AGRICULTURE-ENVIRONMENTAL SCHEME

In order to complete this brief overview of the French rural development program, it is helpful to go into detail of the French agri-environmental scheme which is called "Measure 214" and placed under Article 39 of European Regulation No. 1698/05. This scheme has been implemented by several recent texts: The Hexagonal Rural Development Programme, an "Arrete" Decree No. 2007-1342, and "Circulaire" of September 2007.³⁶

This legal framework promotes nine agri-environmental sub-schemes which have the following main legal principles:

32. *See infra.*

33. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 3, ¶ 27 (2005).

34. World Trade Organization, Legal texts: the WTO agreements, http://www.wto.org/english/docs_e/legal_e/ursum_e.htm#kAgreement (providing a description of the World Trade Organization Agreement on Agriculture).

35. Council Regulation (EC) No. 1698/05, O.J. L 277/1, 20, art. 39 (2005).

36. François Fillon, Décret No. 2007-1342 du 12 Sept. 2007 relatif aux engagements agroenvironnementaux et modifiant le code rural, Journal Officiel de La République Française [J.O], sec. 4, Art. D 341-7; Arrêté du 12 Sept. 2007 relatif aux engagements agroenvironnementaux, Journal Officiel de La République Française [J.O].

1. Agri-environment payments granted to farmers who commit to respect agri-environmental “engagements”;
2. Most of the time, farmers have to conclude a five to seven-year administrative contract with the State;
3. A farmer can be involved in several “engagements” only if each “engagement” corresponds to different commitments.³⁷

The agri-environmental sub-scheme and its main rules are the following³⁸:

1. Grant to “grassland” (PHAE)
 - a. Goal: To stabilize grass surfaces and to maintain environmentally friendly practices;
 - b. Aid level: 76 Euros (€) per hectare and per year.
2. Agro-environmental measure for diversification of crop:
 - a. Goal: To limit the development of insects and blight caused to crops and reduce the use of phytosanitary products;
 - b. Farmer commitment: Crop rotation on at least seventy percent of the arable land;
 - c. Aid level: 32 € per hectare and per year.
3. Mixed farming and breeding system:
 - a. Goal: To reduce the use of phytosanitary products;
 - b. Aid level: 130 € per hectare and per year.
4. Organic Agriculture Conversion:
 - a. Farmer commitment: To respect the organic specifications;
 - b. Aid level per hectare and per year: 100 € for grassland; 200 € annual crops; 350 € for fruit farming, 600 € for truck farming.
5. Organic Agriculture Conservation:
 - a. Farmer commitment: To respect the organic specifications for 5 years;
 - b. Aid level per hectare and per year: 80 € for grassland; 100 € annual crops; 150 € for fruit farming; 300 € for truck farming.
6. Local breeds in danger of being lost to farming:
 - a. Farmer commitment: To have endangered livestock specified on a legal list;
 - b. Aid level per livestock unit and per year: 125 € for horses; 50 € for others breeds.

37. Fillon, *supra* note 36.

38. MINISTÈRE DE L'AGRICULTURE ET DE LA PÊCHE, *supra* note 15, at 191-239 (These pages provide a comprehensive analysis of the agri-environmental sub-schemes and their implementation rules.).

7. Vegetable resources in danger of being lost to farming:
 - a. Farmer commitment: To plant Vegetables resources in danger;
 - b. Aid level per hectare and per year: 600 € for vegetable crops; 78 € for annual crops.
8. Domestic Bees Pollinating Potential Improvement:
 - a. Farmer commitment: To seventy-five colonies located in specific areas;
 - b. Aid level: 17 € / bee hive / year.
9. Territorial Agro-environmental sub-scheme:
 - a. Goals (extract):
 - i. To insure a good management of “Natura 2000” areas (areas for birds and habitation protection); or
 - ii. To fight against pollutions by phytosanitary products in river basins and drinking water alimentation basins;
 - b. Aid level: dependent on the various commitments.

Thus, for example, to limit the development of insects and blight caused to the crops and reduce the use of phytosanitary products, a farmer can receive 32 € per hectare per year if he commits to a crop rotation on at least seventy percent of his arable land.³⁹ In the same sense, a farmer who gets a contract with the French government in order to qualify for the organic specifications for up to five years, may apply for 150 € per hectare per year if he has a fruit farm.⁴⁰ It is important to remember that every payment is always limited to a maximum legal amount.

V. CONCLUSION

Based on my research, two points must be highlighted:

First, I would like to stress that local implementation of the French rural development program will be very difficult. Indeed, its complex nature will make it very difficult to understand and apply. Also, it's so ambitious that it will be difficult to reach its objectives with so little money.

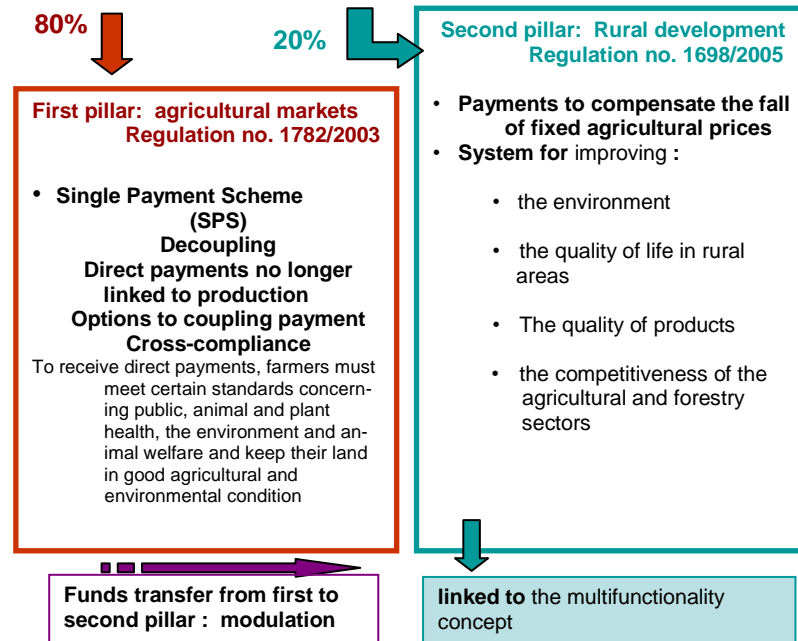
Second, there is a problem of coherence for the CAP. It is as if the European Union tries to reconcile two quite different, and sometimes incompatible, ideas. The first pillar, and the competitive scheme of the rural development regulation, tends to improve intensive and international trade farming while most of the rural development schemes intend to develop environmentally friendly practices which sometimes aren't in accordance with intensive farming. Moreover, in

39. *Id.* at 205.

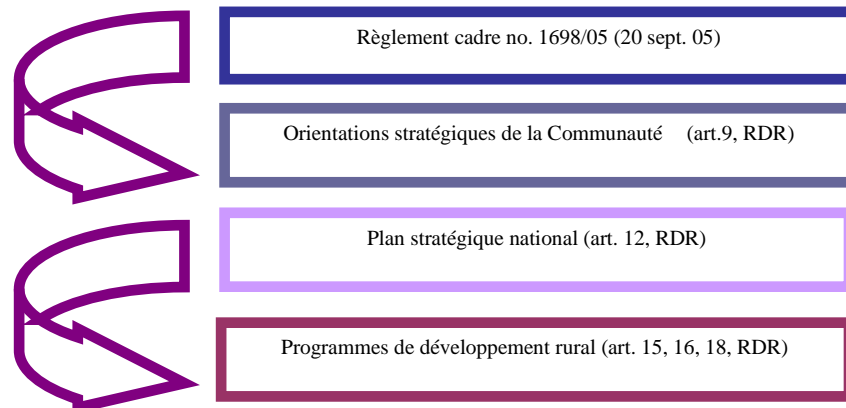
40. *Id.* at 218.

fact and in practice, priority is given to intensive farming. Maybe it is time to decide how to concentrate the European and national agricultural subsidies in order to be more coherent, particularly due to the recent entrance of new members in the European Union, which will have wide-ranging effects on the individual financial allocation of rural development programs for years to come.

ANNEX 1- COMMON AGRICULTURAL POLICY

Introduction: the Common Agricultural Policy (CAP)

ANNEX 2- PROCEDURE SET UP BY COUNCIL REGULATION (EC) No. 1698/03



ANNEX 3- FRENCH RURAL DEVELOPMENT SCHEMES

European RDR	French Hexagonal Rural Development Program	
	National sub-schemes	Regional adaptations or sub-schemes
<p>Axis 1 Competitiveness 4 schemes; 16 sub-schemes</p>	<p>Mesure 112 : aide à l'installation des jeunes agriculteurs Mesure 122 : amélioration de la valeur économique des forêts (2 dispositifs) Mesure 125 : infrastructures liées à l'évolution et à l'adaptation des secteurs agricole et forestier (1 dispositif) Mesure 126 : reconstitution de potentiel de production agricole endommagé par des catastrophes naturelles</p>	<p>Mesure 111 : formation professionnelle et action d'information (2 dispositifs) Mesure 121 : modernisation des exploitations agricoles (3 dispositifs) Mesure 123 : accroissement de la valeur ajoutée des produits agricoles et sylvicoles (2 dispositifs) Mesure 124 : coopération en vue de la mise au point de nouveaux produits, procédés et technologies Mesure 125 : infrastructures liées à l'évolution et à l'adaptation des secteurs agricole et forestier (2 dispositifs) Mesure 132 : participation des agriculteurs à des régimes de qualité alimentaire Mesure 133 : activités d'information et de promotion</p>
<p>Axis 2 Environnement 2 schemes; 12 sub-schemes</p>	<p>Mesure 211 : paiements destinés aux agriculteurs situés dans des zones de montagne qui visent à compenser des handicaps naturels Mesure 212 : paiements destinés aux agriculteurs situés dans des zones qui présentent des handicaps autres que ceux des zones de montagne Mesure 214 : paiements agro-environnementaux (2 dispositifs) Mesure 226 : reconstitution du potentiel forestier et adoption de mesures de prévention (1 dispositif)</p>	<p>Mesure 214 : paiements agro-environnementaux (7 dispositifs) Mesure 216 : aide aux investissements non productifs Mesure 221 : premier boisement des terres agricoles Mesure 226 : reconstitution du potentiel forestier et adoption de mesures de prévention (2 dispositifs) Mesure 227 : aide aux investissements non productifs (sylvicoles)</p>
<p>Axis 3 Rural 4 schemes; 8 sub-schemes</p>		<p>Mesure 311 : diversification vers des activités non agricoles Mesure 312 : aide à la création et au développement des micro-entreprises Mesure 313 : promotion des activités touristiques Mesure 321 : services de base pour l'économie et la population rurale Mesure 322 : rénovation et déve-</p>

2008]

European Rural Development Regulation in France

19

		loppement des villages Mesure 323 : conservation et mise en valeur du patrimoine rural (5 dispositifs) Mesure 331 : formation et infor- mation Mesure 341 : acquisition de compétences, animation et mise en œuvre (2 dispositifs)
Axis 4 LEADER 3 catégories de mesures; 5 dispositifs		Mesure 411, 412 et 413 Stratégies locales de développement (LEADER) Mesure 421 Coopération interterri- toriale et transnationale Mesure 431 Fonctionnement du GAL, acquisition de compétences et actions d'animation sur le territoire