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**Commission I**

**National Report – Rapport national – Landesbericht  
Finland**

**Legal incentives and legal obstacles to diversification for farmers  
– Incitations et obstacles juridiques de la diversification de  
l'agriculture – Rechtliche Fördermittel und Hindernisse für die  
bäuerliche Diversifikation**

**LL.D. Eero Henrik Nordberg**

**XXV. European Congress and Colloquium of Agricultural Law**  
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**Commission I**

**Finnish National Report**

**LL.D. Eero Henrik Nordberg**

***General remarks***

Finland is the most rural country in EU. Of the area over 90 per cent can be classified as rural, with about 42 per cent of the population, but only 32 per cent of the working places. Of the Finnish population (5.32 million, 2008) 24,5 per cent, about 1.3 million people, live in the most rural areas, i.e. rural heartland areas and sparsely populated rural areas.<sup>1</sup> An actively handled objective has been in Finland, already before joining EU 1995, to maintain the countryside and further its viability and attractive environment with sufficient opportunities for work and living.

National Policies on “Rural Development” are closely connected with the EU-policies. The northern circumstances and the rather low population density of Finland give special features for the regional and structural policy. There was for this reason established in the Accession Treaty of Finland and Sweden a new policy objective 6: Development and structural adjustment of northern, very scarcely populated regions. E.g. according to the 1999 Act on Financing of Rural Industries (329/1999) the rural development policy favoured among others the diversification of the farm based activities.<sup>2</sup>

Rural development policy has evolved from a policy dealing with the structural problems of the farm sector to a policy which addresses the multiple roles of farming in society and, in particular, challenges faced in a wider rural context. The tandem of sectoral and territorial elements is embedded in that policy being considered as the second pillar of the CAP.

Council Regulation (EC) No 1698/2005 takes for the ongoing programme period 2007-2013 a strong strategic approach to rural development through defining of three core objectives, which are improving competitiveness of farming and forestry<sup>3</sup>, environment and countryside, improving quality of life and diversification of the rural economy. These are subsequently further broken

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<sup>1</sup> The OECD classification for different areas has three classes where NUTS III areas are labelled as urban if less than 15 % of its population live in LAU II areas with a population density below 150 inhabitants/km<sup>2</sup>. A NUTS III area is relatively rural if 15 to 50 % of its population lives in LAU II areas with a population density below 150 inhabitants/km<sup>2</sup>, while it is rural if it is more than 50 %. (The Commission’s replies in Special Report No 7/2006 concerning rural development investments: do they effectively address the problems of rural areas? together with the Commission’s replies (pursuant to the second subparagraph of Article 248(4) of the EC Treaty) (2006/C 282/01))

<sup>2</sup> Through the Act 329/1999 were repealed the Act on Rural Industries (1295/1990) and the Act on Measures for Structural Policy of Agriculture and Forestry (1303/1994). On the basis of these acts were established and further developed, among others, various kinds of small scale activities on farms outside agriculture (e.g. farm holidays, bed and breakfast services, cottage renting and other services for tourists, as well as lots of other small scale industries, services or occupations).

<sup>3</sup> The Finnish farm has on average 34 hectares arable land (2008) and 44 ha forest.

down into sub-objectives specific to the different measures. Regulation (EC) No 1698/2005 includes a clear targeting towards smaller enterprises in processing and marketing of agricultural products and micro-enterprises for forestry products in axis 1 and for business development in axis 3. The latter concerns the above mentioned diversification not only of farms, and with them in cooperation being enterprises, but now also separate rural enterprises by setting up and developing almost all kinds of non-agricultural rural micro-enterprises.

The approach in Regulation (EC) No 1698/2005 is coherent between individual measures, and gives flexibility to help Member States building coherent development strategies. It offers a large spectrum of measures so that Member States can choose those more relevant to their situation and needs. Member States/regions define objectives and a strategy in their Rural Development Programmes (RDP).

### **Definition of diversification** (Question 1)

In Finland there is no statutory definition for diversification on farms or, in large, on rural areas. Small rural enterprises can be divided e.g. into three groups: farms engaged in basic agricultural production, diversified farms and small rural enterprises.<sup>4</sup>

From the perspective of the Finnish traditional agriculture the picture of diversification can be approached by referring to the following statistical table concerning the amount of diversified farms by main line of side business, 2007.<sup>5</sup>

	Total
PRIMARY PRODUCTION (fish and grayfish farming, fishery, fur farming, reindeer farming, other primary prod.) <sup>6</sup>	1 504
INDUSTRY	4 777
Food processing (meat, slaughtering, vegetables, root crops, berries, dairy products, flour mill products, bakery products, beverages production, other food production)	621
Processing of other agricultural products (wool, flax, other processing)	140
Timber processing (sawing, planing, impregnation, production of joinery products)	1 122
Handicraft (carpets, rugs, furniture, other textiles prod.)	414
Energy production (fuel and food chips production and sale, sale of straw etc. for energy production, peat production) <sup>7</sup>	1 573
Other production (production of metal products, other production)	907
CONSTRUCTION	1 042
TRADE (direct wholesale and retail trade of non-refined/refined agricultural	

<sup>4</sup> Finnish Agriculture and Rural Industries 2008, p. 12. The third category comprises here small enterprises with no connection to farms.

<sup>5</sup> Information Centre of the Ministry of Agriculture and Forestry, Farm Structure Survey concerning the amount of diversified farms by main line of business, 2007 "Preliminary data 12.5.2008".

<sup>6</sup> Comparison inf.: Other primary production than agriculture or forestry was in 2005 still carried out by 1,815 farms, of which 574 were involved in reindeer herding, 510 in fur production, 64 in fish and grayfish etc farming, 144 in fishery and 523 in others.

<sup>7</sup> Farms involved in the further processing of wood and foodstuffs have decreased in numbers since 2003 by approximately one fifth. On the other hand, the number of farms providing firewood and wood chips or involved in other renewable energy production operations has grown by 17%. Some 1,040 farms were involved in the production of renewable energy in 2005.

products, other wholesale and retail trade)	1 298
SERVICE	14 470
Tourism, accommodation, recreation (holiday cottages leasing, accommodation services, restaurant and/or cafes, catering services, recreational fishing, riding, camping, program services	1 627
Contracting (contr. with farming/forest machines, snow removal, road maintenance, foundation)	8 539
Other services (care services, transport, activity contributing business life, horse management, real estate management, cleaning services, environmental care, hairdresser's and beauty salon, other services)	4 304
Main line of business unknown	88
<b>Total</b>	<b>23 179</b>
In year 2005 there were diversified farms/ all farms	24 294/69 517

A diversified farm refers to holdings, which are involved in other business activities besides the basic agriculture (or horticulture) and forestry. So, more than one third of Finnish farms are engaged also in secondary business activities. Machinery subcontracting is the most common (41 % of diversified farms) and, in terms of turnover, the most significant of non-agricultural operations on diversified farms. Next come construction work, holiday cottage leasing, fuel wood and wood chips production, wholesale/retail trade of agricultural products.<sup>8</sup>

Economic impact of secondary business operations on turnover is relatively small. In 2005, turnover from secondary business operations was less than 10,000 euros on 39% of diversified farms. Turnover exceeded 50,000 euros on 23% of farms. Less than half of the diversified farms had had less than 25% of the family's net income derived from secondary business activities. On the other hand, on 6,600 farms more than half of the family's net income was generated by secondary business activities.<sup>9</sup>

### ***Diversification in Council Regulation (EC) No 1698/2005***

The above statistics and Regulation (EC) No 1698/2005 imply that diversification of farms can include (see also its preamble 46-49) almost all kind of economical activities, mainly micro scale industries or services that may improve the quality of life in rural areas and rural economy. Diversification of the rural economy can in accordance to Art. 52(a, i-iii) comprise diversification

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<sup>8</sup> In all parts of European Union the relative share of diversified farms has grown in recent years, being on average about 12 % of farms. The share of diversified farms is highest in Finland.

Finnish Agriculture and Rural Industries 2008, p. 12. The diversified farms in Finland represent more than one third (35%) of all farms. During 2003-2005 the number of diversified farms increased by some by some 3%, but after that decreased by 3, 5 % till 2007. The number of diversified farms continues to be the highest in areas where the number of farms is generally high, i.e. in regions of western and south western part of Finland. In relation to the number of farms in a specific region, the share of diversified farms was the highest in Lapland and Uusimaa (riparian region of Finnish Gulf) as well as on the Åland Islands and the lowest in East Finland. Diversified farms are mostly grain-growing farms. In 2005, a total of 42% of diversified farms were grain-growing farms and 16% dairy farms. The average arable area of diversified farms was 38.1 hectares.

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<sup>9</sup> ib.

into non-agricultural activities<sup>10</sup>, creation and development of micro-enterprises<sup>11</sup> with a view to promoting entrepreneurship and developing the economic fabric, and encouragement of tourism activities.<sup>12</sup> Article 52(b, i-iii) then gives further information, that there can in entrepreneurship be (in some cases) question also about producing some basic type services for the economy and rural population,<sup>13</sup> consulting services in village renewal and development and work in conservation and upgrading of the rural heritage, and thus help for improving the quality of life in the rural areas.

It is to be emphasized that Regulation (EC) No 1698/2005, as well as the national programmes for its implementation, in being part of the CAP have the purpose to modernise agricultural holdings, among others, through “targeting ... (both) on/(and) off-farm diversification, including non-food sectors and energy crops ...”.<sup>14</sup> It is perhaps not surprising to make a comment, that when Finland at the end of 1980’s started to support the diversifying of farm activities, the system included not only establishment and enlargement of various kind of small scale businesses on farms but also diversifying to horticulture and other special agriculture, among others fur farming.

### ***Legal rules with significance in diversification*** (Question 2)

Agriculture, forestry and fishery and most other possible rural enterprises belong to the area of freedom of trade and occupation. They are so called self supporting trade, unlicensed according to the 1919 Trade Act (122/1919, last amended 344/2008). The right to self supporting trade belongs to every person, who has full legal capacity. It is possible, according to the Trade Act, to practice almost all kind legal trade that is not in violation of bona mores (Trade Act section 1). Trade means in the Act a person’s regular work or profession, job or principal activity such as commerce, services, manufacturing, handicraft and other business engaged with the purpose of gaining profit.<sup>15</sup>

For agriculture and forestry is neither a permit/licence nor even notification or commercial name needed. Operating a business or other enterprise without having as labour force other persons than one’s marriage partner or minor family members and without keeping for it a shop, an office or other premises is allowed without special notice permit or licence. In other case a notice to the registration authority is needed (Trade Act section 5, amended 9/1969). So, for non- agricultural activities on a farm or outside it there is normally no need for a notice to the authority in the first mentioned circumstances. These concern especially those professionals, who are able to carry on business at home, e.g. hairdressers, barbers, beauty operators, upholsters, tailors, handicraftsmen, artisan etc.

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<sup>10</sup> Diversification into non-agricultural activities: The aid beneficiary referred to in Article 52(a)(i) shall be a member of the farm household. (Reg. (EC) No 1698/2005 Art. 53)

<sup>11</sup> Support for business creation and development: The support provided for in Article 52(a)(ii) shall relate only to micro-enterprises as defined in the Commission Recommendation 2003/361/EC. (Reg. (EC) No 1698/2005 Art. 54)

<sup>12</sup> The support for encouragement of tourism activities, referred to in Article 52(a)(iii), shall cover the following:

(a) small-scale infrastructure such as information centres and the signposting of tourist sites;

(b) recreational infrastructure such as that offering access to natural areas, and small-capacity accommodation;

(c) the development and/or marketing of tourism services relating to rural tourism. (Reg. (EC) No 1698/2005 Art. 55)

<sup>13</sup> The support referred to in Article 52(b)(i) shall cover the setting up of basic services, including cultural and leisure activities, concerning a village or group of villages, and related small-scale infrastructure.

<sup>14</sup> Regulation (EC) No 1698/2005, preamble point 21.

<sup>15</sup> See also Surakka, Aapo: *Access to Finnish Law*, WSOY, Helsinki 2005, p. 84-85.

The Company Names Act (128/1979, last amended 910/2006) defines the requirements of business name. However, a private entrepreneur (natural person) in self supporting trade can always use his/her surname as business name without seeking special protected business name with exclusive right.

However, there are separately regulated trades and occupations, for practising of which a license or permit may be required, e.g. mining installations, bookstores, other open bookselling, book printing plant/shop and book publishing, libraries and magazine publishing, pharmacies, alcohol industries/ import/production/selling, production and selling of other beverages, restaurant, café, hotel, motel, other lodging houses, trade of manufactured fertilizers and feed stuffs, seed trade, banking, investment and other financial businesses, traffic services Trade Act section 3, amended 484/1985 and 1036/1993).

Farmers and other persons from country have the right, without special rural notice, themselves or with the help of others, put on sale in the town or country all agricultural products from the farm and handicraft products manufactured from one's household.

However, there is separate statute about corporate bodies' that are under the obligation to report for entry in the merchant registry. Commercial name is to be obtained here for the right of establishment. Corporate bodies however must always be taken into register and have corporate names. Commercial name voluntarily reported for entry into the register can, however, be obtained for all kind of enterprises.

On the hand the Trade Register Act (129/1979) regulates on keeping national basic register on information of commerce and industry. According to the registration is obligatory for corporate bodies, e.g. general/limited partnership, company limited by shares, co-operative societies, non profit association, foundation, however must always be entered into the register and have corporate names.

The whole Finnish legal system is based on statutes. However especially in civil law sector precedent types of adjudication, more similar to common law, play its role. The rules don't differ when they are applied to landownership or tenancy, but in concern of tenancy the activity must not be contrary to the contract of lease.

There are no noticeable relevant conflicts between EU law and state law concerning our theme.

### ***Legislative, contractual or other restrictions in respect of diversification*** (Question 3)

As already hinted above, there is not usually need to special permit or licence to be obtained from an authority for a diversifying activity. On the other hand, in case of practising entrepreneurship on leased land diversification shall not be in controversy to the land lease contract. A land lease must be in written form in order being binding upon both parts.<sup>16</sup>

The implications of Rural Development Policy for the ownership of land and other property rights of the owners and/or users of agricultural land are few. There are no statutes in the national legislation including mandatory provisions to oblige farmers to cultivate agricultural land. No statutes prohibit the owner to afforest field areas, and on the other hand Forest Act (1093/1996) does not restrict the changing of forest to arable land.

Landlord/tenant relationships don't play greater problematic role in implementing Rural Development Policy. The relationship is mostly based on the freedom of contract and

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<sup>16</sup> A business local lease need in principle not fulfil any formal requirements. The transfer of ownership of a real property does not affect the tenant's rights or obligations under Tenancy Act or Business Lease Act (482/1995) and that the lease remains in force. However, if the tenant does not yet have possession of the lease object and the new owner of the real property did not know (and he/she could not reasonably have known) about the land lease or business lease, the new owner may terminate the both kind of leases.

agreement.<sup>17</sup> According to the Tenancy Act (258/1966) a farm with a house and outbuildings can be least to be used mainly for agriculture for a maximum of 15 years. As far as special new buildings for diversification are not constructed or the activity does not otherwise be in breach with the purpose of the lease contract, can the tenant farmer and his/her family members practice self supporting trade on the leased farm. Of course, there is always a possibility to ask the landlord for a written permission. Real estate or an area can be rented for other industries than agriculture even for a longer period, but not more than 100 years.

Additionally here shall be mentioned that a lease of land can also be registered, when the farmer, according to the contract, has the right to transfer it to a third part. The object of a real estate lien can also be such a leased land. A real estate lien is established by creating a mortgage by entering it into the title and mortgage register and handing the mortgage instrument over to the creditor as security for a debt. A leasehold interest created by Tenancy Act (258/1966) can so be freely used as security for financing, provided that the land lease agreement is for a fixed term, the leasehold right is freely assignable and the tenant either owns one or several buildings located on the leased land or has a right to erect them on the leased land.

In Finland the legal basis for spatial planning system is the Land Use and Building Act (132/1999). Land use, spatial planning and construction are controlled by the Act. The objective of this Act is to ensure that the use of land and water areas and building activities on them create preconditions for a favourable living environment and promote ecologically, economically, socially and culturally sustainable development.

Construction and land use changes are controlled through official plans defined at various levels, including regional land use plans and local master plans (both are general plans) and local detailed plans (also in some shore line areas). Shorelines where no developments have yet been planned are generally protected from future construction developments. Local detail plans have and even local master plans may have direct effect on the private landowner. The latter plans, as well as regional land use plans, are directing the more possible detail plans, among them also so called strand plans for organising dense building of shore areas, mainly free-time areas. Both master plans and detail plans can contain assignments also for rural land use. The detail plans mainly constitute the basis for construction licenses. More specific controls are defined by Government Decree 895/1999. The National Building Code of Finland incorporates comprehensive technical standards and guidelines. Local regulations subordinate to these national laws are additionally defined in municipal building codes. All projects involving construction need building permit or action permit

So, the detail plans mainly constitute the basis for construction licenses. Rural areas are mostly outside detailed plans. So there are not special difficulties in building and getting building/action permit in rural areas, except on strand zones (in practise extending 100 to 200 meters from the strand site measured at the medium height of the water) where there is a basic prohibition of new building. However, this prohibition does not exist e.g. when there is need of building for agriculture, forestry or fishery, or building a sauna in connection of an existing residential building or in connection of a farm. Also there are some changes to get exceptional planning permission before a building/action permits may be granted. Elsewhere on farms may also be other kind of exemptions for building. In some cases the building or rebuilding of cattle house or other production buildings are not even in need of a construction licence.<sup>18</sup>

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<sup>17</sup> Tenancies have, since Finland's access to EU 1995, played a growing role as complementary arable land in enlargement of arable land areas of farms. However, over 90 % of Finnish farms are run on the basis of landownership. The share of leased arable land is about 30 %.

<sup>18</sup> The municipal authorities may designate specific areas to be covered by new plans. Decisions on building permits for areas to these areas are made in two phases. First the permit authority makes assessment about existence of

***Rural Development Strategy and Program with the incentives for diversifying*** (Question 4)

One of the main objectives of Finland's rural development strategy is according to the Finnish Mainland Programme to preserve a viable and active countryside. Of great importance in respect of the regional policy in Finland are especially the supports for all kind of diversifying business activities on and outside farms and also separately in rural areas.

Rural Development Strategy and Programme for the ongoing programming period 2007-2013 was prepared in Finland in form of one strategy and two rural development programmes, one for Mainland Finland and one for the Province of Åland. The general rules for the support for rural development are laid down in Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD). The public funding for the Rural Development Programme for Mainland Finland comes from the EAFRD and from national sources. The total public funding for 2007-2013 is 6 626 million euros, of which about 31% comes from the EAFRD. The national funding consists of both state and municipal funding. In addition to this, a total of 782 million euros should be derived from private sources.<sup>19</sup>

The key areas of the Rural Development Strategy are economically and ecologically sustainable and ethically acceptable agriculture, promoting rural entrepreneurship, and strengthening local initiative. The programme, connected to EAFRD funding, is constructed along the following four axes of Regulation (EC) No 1698/2005, through which the priorities set out in the strategy are implemented: 1) improving the competitiveness of the agricultural and forestry sectors, with the public funding for the total programming period 2007-2013 about 504 million euros (7.6 % of the public funding); 2) improving the environment and countryside, public funding about 5 406 million euros (81.6 % of the public funding)<sup>20</sup>; 3) improving the quality of life in rural areas and encouraging diversification, public funding about 433 million euros (6.5 % of the public funding); 4) Leader approach, public funding about 242 million euros (3.7 % of the public funding).<sup>21</sup> Farm diversification concerns directly axe 3 and 4. Thus, following text concentrates mainly to those axes of the Rural Development Programme for Mainland Finland. However, to axe 1 shall be alluded also in concern of development of food and wood processing and bioenergy sectors.

Rural businesses and welfare are boosted through diversified entrepreneurship and investments in basic services, as well as cultural and free-time services. The services benefit both the rural residents and enterprises. Incentives are provided for setting up new enterprises in the countryside and developing and modernising the existing ones. Priority is given to enterprises that preserve jobs or create new ones. Special attention is directed to the

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suitable preconditions for the development, and then a decision can be made on a specific building permit. However if the development does not conform with current land use plans or other regulations or limitations defined under the Land Use and Building Act, exceptional planning permission should be granted before an application for a building permit may be considered. Exceptional planning permission may not be granted for developments that hinder future planning, the implementation of current plans, other designated land uses, or the conservation of natural or built environments.

<sup>19</sup> Total funding allocated to Finland from the EAFRD and through so-called modulation (funds cut from direct payments) is for the programming period 2007-2013 estimated at about 2 080 million euros. According to the Strategy, the funds are divided so that the share of Mainland Finland is 2 063 million euros and the rest goes to the Province of Åland. The national share may contain both State and municipal funding.

<sup>20</sup> Here includes, among others, diversification to bioenergy production that environmentally contributes to the carbon sink effect and reduction of greenhouse gases and helps to preserve soil organic matter.

<sup>21</sup> The funding from the EAFRD is allocated to the four axes as follows: axis 1 the minimum of 11%, axis 2 the maximum of 76%, axis 3 the minimum of 11% and Axis 4 (Leader approach) the minimum of 5.5%.

employment of women and the young, as well as the special characteristics of sparsely populated and rural heartland areas.

The Programme has introduced the following measures under axis 3:<sup>22</sup> diversification into non-agricultural activities; support for the creation and development of enterprises; encouragement of tourism activities; basic services for the economy and rural population; village renewal and development; conservation and upgrading of the rural heritage; and training and information. According to the programme will be supported investments, development and start-up of enterprises and various kinds of development projects. Additionally axis 4 with its Leader approach, which now covers the whole country, brings together the substance of the objectives of all other axes, which are being implemented locally through the Leader associations.

### ***Act on Support for Rural Development and Government Decree on Supports for Rural Entrepreneurship***

*The Act on Support for Rural Development (1443/2006)* stipulated on the implementation of Rural Development Policy, especially axis 3 and 4 in Council Regulation (EY) No 1698/2005 with its measures for Rural Development and so among others the supports for farm's and other rural business's diversification. Supports financed partly from EAFRD can be complemented with granting supports also totally from national funds as part of the Programme or separately, when accepted by the Commission.

The objectives of the 1443/2006 are to diversify the economic activities in the rural areas, improve the operating conditions and competitiveness of rural enterprises, promote the competitiveness of agricultural products and improve the quality of life of rural residents, in compliance with the principles of sustainable development (section 1). A precondition for granting the support is that the supported measure viewed as a whole promotes one or several of those objectives. If the support is included in a certain programme, the support must also promote the objectives defined in the programme and the supported measure must be implemented in the area covered by the programme. (section 7 (1))

Act 1443/2006 applies to such support granted for rural development that is funded from the Community and corresponding national funds or entirely from national funds (section 2). So, the law targets, among others, the diversification of rural industries, on and off the farms and the developing of operational conditions and competition capabilities of different kind of rural businesses.

*Governmental Degree on Supports for Rural Entrepreneurship (632/2007, GD)* regulates in greater detail the conditions for the support measures in article 52 of the Council Regulation (EC) No 1698/2005. They concern especially the measures to diversification of the rural economy, comprising diversification into non-agricultural activities, support for the creation and

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<sup>22</sup> Program pp. 63-64. Of the EAFRD contribution for axis 3, a minimum of 60% is allocated to the creation of employment opportunities and a minimum of 25 % is allocated to promoting living and the quality of life in rural areas. The rest of the EAFRD funding is mainly allocated for promoting the other priority objectives described here.

The priorities set in the strategy for diversifying the rural economy and improving the quality of life in rural areas (axis 3) are mainly to: 1) slow down the decrease in the population of sparsely populated rural areas and rural heartland areas and to contribute to an improvement in employment at the same pace in the whole country; 2) support an increase in the number of rural enterprises and jobs and the diversification of economic activities. To promote new innovations and product development and their utilisation to create employment opportunities and improve the capacity and skills in both entrepreneurship and in the fields of information and other technology in rural areas; 3) improve the attractiveness of rural areas as places of residence and leisure. To contribute to the efforts aimed at maintaining the activity and vitality of villages.

development of micro-enterprises with a view to promoting entrepreneurship and developing the economic fabric, as well as encouragement of tourism activities.<sup>23</sup>

Because a condition for granting investment support is that there is a market for the product of the entrepreneurial activity to be supported, investment support shall, taken into consideration the market circumstances, be directed for such projects which are assessed to have significant impact to creation and diversification of the business activity, as well as to improvement of employment, in the area in concern (Act section 13.3 and GD section 21 (271/2008)). A factor in favour for granting support is considered the investment's beneficial effects to equality, environment, use of renewal energy or use of existing community structure.

Sectors for micro-enterprises to be funded are not further restricted, but competition within the region may not be distorted. So, a precondition for granting enterprise support is always that the support is expected to cause no more than minor impacts which may distort the competitiveness or functioning of the market. (Act section 15.1). There is a special condition required for enterprises acting only in local markets. The enterprise is expected with its services or products supplement such local or regional demand, that existing enterprises are considered reasonably not to satisfy (GD section 22).

In order to work as incentive, a condition for support is that it is considered to have significant effect for the realization of the aimed action or investment so that it can be carried out in a faster timetable, in higher quality level, in larger scale, or that without the support it is not going to be carried out (GD section 3).

Rural enterprises eligible for support are (Act section 11 (1478/2007)) classified in four groups: *agricultural enterprises*, i.e. an enterprise which participates in practising agriculture on a farm (also see GD 632/2007 section 2.1 point 10 k. (271/2008)), and *micro, small and medium-sized enterprises*, each of which fulfils the definitions and conditions for the corresponding enterprise in Commission Recommendation 2003/361/EC.<sup>24</sup> Additionally, enterprise support can be granted to a corporation governed by private or public law whose tasks or mission statement contains service production for enterprises (*development corporation*).

Enterprise supports may be granted to those enterprises as follows:

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<sup>23</sup> It is estimated that in Finland there are about 73 000 rural micro-enterprises outside farms. Altogether, with about 23 500 diversified enterprises on farm (so called agricultural enterprises), the total number of such rural micro-enterprises is about 96 000.

<sup>24</sup> Annex of Commission Recommendation 2003/361/EC and section 5 of GD 632/2007. Micro enterprise is an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EURO 2 million. An enterprise which (also GD section 2.1 point 11-12) employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EURO 10 million is *small enterprise*. Medium-sized enterprise, then, employs fewer than 250 persons and has an annual turnover not exceeding EURO 50 million, and/or an annual balance sheet total not exceeding EURO 43 million (GD section 2.1. point 12 (271/2008)). The headcount in each enterprise category corresponds to the number of annual work units (AWU), i.e. the number of persons who worked fulltime within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

The staff consists also of owner-managers, as well as partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

GD section 10.4. When the applicant is a corporation, one of its partners, shareholders or members is considered as the entrepreneur.(271/2008)

- (Act section 12) **start-up support** to a) agricultural enterprises for extending the activity outside agriculture<sup>25</sup> and b) for a microenterprise for starting up or expanding its activity;
- (Act section 13) **investment support** to a) agricultural enterprises for extending the activity outside agriculture, b) microenterprises for starting or expanding the activity of an enterprise or improving its production and quality of the products and internationalisation of the activity, and c) SMEs for improving the productivity of entrepreneurial activity in primary processing and placing on the market, improving the quality of the products and internationalisation of the activity (amended 1478/2007);
- (Act section 14) **development support** to a) agricultural enterprises for extending the activity outside agriculture, b) microenterprises for starting or expanding the activity of an enterprise or improving its production and quality of the products and internationalisation of the activity, as well as for acquisition of expert services and training in support of the operating conditions and competitiveness of an enterprise and developing cooperation between enterprises (amended 1478/2007), c) SMEs for improving the productivity of entrepreneurial activity in primary processing and placing on the market, improving the quality of the products and internationalisation of the activity. (amended 1478/2007), and d) development corporations for the production of services to enterprises necessary as regards an activity referred to in all points above. (amended 1478/2007)

According to the Decree the agricultural enterprise is considered to extend its activity outside agriculture (i.e. the supportable diversification into non-agricultural activities), when it starts on or off the farm following activities (section 11, amended 271/2008):

- 1) placing agricultural products for sale in a special site on the farm;
- 2) primary processing of agricultural products, with the exception of such operations which take place on the farm and are necessary only for preparing the product for first sale;
- 3) producing of services;<sup>26</sup> or
- 4) manufacturing other products than agricultural ones.

Agricultural holding is also being diversifying outside agriculture, when it is developing those entrepreneurial activities which already exist on the holding. It has to be noted, that provisions concerning giving support to micro-enterprises and SME- enterprises can be applied accordingly also for diversified agricultural enterprises.

### ***Supports for diversification of agricultural enterprises into non-agricultural activities***<sup>27</sup>

Granting enterprise support to an *agricultural enterprise* which participates in practising agriculture on a farm means according to Article 53 of Regulation (EC) No 1698/2005, that the beneficiary of enterprise support actually is *one or several members of the farm household*<sup>28</sup>,

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<sup>25</sup> It covers both starting of enlargement of the farm outside agriculture and expanding already enlarged enterprise (Act section 12 and GD sections 16 to 20)

<sup>26</sup> See e.g. Art. 55: "Encouragement of tourism activities. The support referred to in Article 52(a)(iii) shall cover the following: (a) small-scale infrastructure such as information centres and the signposting of tourist sites; (b) recreational infrastructure such as that offering access to natural areas, and small-capacity accommodation; (c) the development and/or marketing of tourism services relating to rural tourism."

<sup>27</sup> Article 52(a)(i) and 53 of Council Regulation (EC) No 1698/2005, article 35 and Annex II of Commission Regulation (EC) No 1974/2006, as well Measure 311 of the Finnish Programme.

<sup>28</sup> Member of the farm household means a natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, with the exception of the farm workers. Where a member of the farm household is a legal person or a group of legal persons, that member must exercise an

who diversify into non-traditional agricultural production, e.g. such as services, crafts and the marketing of products manufactured on the farm.

Requirements for the beneficiary of the business support are that the entrepreneur is, at time of the application for aid, older than 18 and less than 63 years old, and beneficiaries are natural persons or corporations. When enterprise support is granted to a corporate agricultural enterprise or microenterprise, a precondition for granting the support is that the decision-making authority in the corporation is held by one or several natural persons who fulfil the preconditions concerning the age and professional skills of the beneficiary and, in the case of an agricultural enterprise, concerning the practising of agriculture. (Act 1443/2006 section 5. and section 11a.3 (1478/2007) and GD 632/2007 section 3-4).

In all categories the enterprise shall have the potential for continuous profitability, i.e. sufficient profitableness, liquidity, financial solidity and marketing possibilities for its products and services (Act section 11 a § (1478/2007) and GD section 7).

Support is granted to members of farm households who diversify support for members of farm households who diversify into non-traditional agricultural production, such as services, crafts and the marketing of products manufactured on the farm. According to the Finnish Mainland Programme The general conditions for business in farm households (so called agricultural enterprise) will also be improved through regional sectoral development projects. The projects to be implemented include **investments in and development of enterprises that**

- engage in the processing of metal, plastics or in the second-stage foodstuffs and handicraft enterprises, the production of bioenergy, environmental management and forestry services;
- investments in and development of enterprises that provide business and personal services (information technology, marketing, household work, health care, nursing, etc.); and
- investments in and development of enterprises that provide tourism and recreational services.

**The focus of funding** is on sectors which can utilise existing resources on farms, such as buildings, machinery, raw materials and possibly underutilised work input of the farmer family. These sectors include food processing, the provision of tourism and care services, service entrepreneurship in the equine sector, and outsourced and part-delivery production in the metal, plastics and electronics industry that requires a significant workforce. It is estimated that some of the projects in this measure are implemented through the Leader approach.

**Start-up support** for diversification of farm (business) into non-agricultural activities covers both first starting of enlargement of the farm outside agriculture and also expanding already enlarged enterprise. Start-up support may be granted for the costs due to hiring of labour corresponding to no more than two man-years. Support may, however, not be granted for the costs due to hiring the applicant. Start-up support is granted for no more than two years. The aid is not meant for seasonal employments. So, the salary cost must cover at least 6 months per person.<sup>29</sup> Start-up may be granted to cover a maximum of 50% of the eligible (reasonable) salary costs, which are subject to tax withholding.

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agricultural activity on the farm at the time of the support application ( Article 53 of Regulation (EC) No 1698/2005, article 35 of Commission Regulation (EC) No 1974/2006).

<sup>29</sup> Accordingly support can be granted to (other) rural micro enterprises for start up or enlargement.

It must be emphasized, that this start up aid shall not be granted to agricultural holdings and micro-businesses for measures under axis 1: Improving the competitiveness of the agricultural and forestry sector, in Council Reg. 1698/2005 Title IV, Chapter I Section I, Axis 1, also GR section 16 subsection 2 )

**Investment support** for farm diversification is granted to agricultural enterprises both for starting and expanding the activity outside agriculture. Support can be granted to construction, extension, repair or purchase of a building or structure necessary in running the business, and to acquisition of other tangible or intangible property, if the investment has a significant role in business start-up or expansion, or chances to continue business operation. Investment support shall be directed to projects that are considered to have a significant impact on new business creation in certain area, or such diversification and strengthening of business, and improving employment. Favourable factors for granting the support are following positive impacts of the investment on: equality, environment, use of renewable energy, or use of the existing fabric of society. (GD section 21)

Support may be granted for the costs due to the investment. In the case of building investments support may be granted for the related planning costs. Land acquisition may be eligible only in connection with the acquisition of a building and its site. A condition for granting investment support is that there is a market for the product of the entrepreneurial activity to be supported (Act section 13, partly amended 1478/2007). Support can be granted so that the amount of public financing in the investment does not exceed 75% of the eligible costs. The EAFRD and State contributions, which are granted as support, may not exceed 20–35% of the eligible costs depending on the national support area. Aid may also be granted for general expenses relating to the eligible costs of an investment, such as wages paid to consultants and other staff employed on a project basis.

Support levels in investments are following (GD section 29)

National support area <sup>30</sup>	Agricultural enterprise (and micro-enterprise)
Support area 1	35 %
Support area 2	25 %
sparsely populated rural areas	35 %
Support area 3	20 %
sparsely populated rural areas	30 %

**Development support** for enterprises is granted to limited development projects to develop the products and production processes of enterprises, marketing or other business activities. Development support can be granted to enterprises or groups of enterprises for acquisition from outside such expertise or training, through which the enterprise can plan intensifying, extending or reorientation of activities, seek new markets, improve product quality, develop new products or otherwise improve its business activity. Additionally this support may be granted to cover extra costs incurred in the enterprise from the development work. (GD section 30)

The objects of development support are following: development of new products, services and production methods; commercialization of innovations and research results; promoting research and product development; networking of agricultural, micro and SME enterprises; and increasing business skills essential for the enterprise.

Support can be paid to cover the eligible costs from the acquisition of training or similar, travel costs incurred from business development activities; costs from using expert advice in business; participation costs of trade fairs and other events; additional costs due to development

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<sup>30</sup> The exception is implemented in the sparsely populated rural areas situated in the support area 2 and outside the areas for regional development in the support area 3 in accordance with Government Decree on support areas for Regional development (44/2007). The map of support areas for investment aid to enterprises is in Annex 7b of GR 632/2007.

According to the principle rule maximum amount of de minimis support is 200 000 euros.

activity. In addition, development support is granted to cover a maximum of 90% of the eligible costs of expert services associated with establishing the business potential, if the costs of such services are limited to a maximum 1 500 euros during a calendar year. For a business group project, when the applicant is development corporation, the maximum support is 75 % of its eligible costs and for other development projects correspondingly 50 %. (GD sections 30-31)

**Creation and development of *micro-enterprises*.**<sup>31</sup> This new category of enterprises receiving rural support is established to prevent increasing economic and social inequalities in rural areas and migration away from these areas. Business aid is used here to encourage the further development of the business activities of existing micro-enterprises outside farm economy and the creation of new such micro-enterprises. These measures can also promote entrepreneurship in rural areas and develop the economy by diversifying it and thus improve the quality of life and the service structure in these areas.

Supports are granted to these micro-enterprises for starting up, expanding and developing micro-enterprises in the case of business activities outside the farm economy. The operating environment and conditions of micro-enterprises will also be improved through development projects by groups of enterprises and regional sectoral development projects.

Support is also granted for product manufacturing businesses, such as investments in, the development of and the starting up of enterprises in the metal, plastics and electronics industry or those engaged in the second-stage processing of foodstuffs and handicraft enterprises, as well as enterprises that provide business services (information technology, marketing, etc.) and care, tourism and recreational services, as well as e.g. bioenergy production.

### ***The possible disincentives and obstacles for diversification***

The Act on Taxation of Farm Income (543/67) covers also incomes from all kind of business activities outside agriculture and forestry not large enough to be considered as separate business. If annual turnover from those activities is negligible, usually less than about 8500, it is not yet considered to be separately taxed according to Act on Taxation of Business Income (360/68). However there is none exact income limit confined. Although, on the side of active agriculture, the separate business turnover could be 20000-50000 euros, business income will not necessarily be subject to taxation as separate industry income. However, the principles of these laws differ from each other only in some details, nearly in concern of depreciation of buildings.

The possible obstacles for diversification concerning a tenant farmer are been already handled before.

### ***The role of diversification in the light of some new considerations*** (Question 5)

It is evaluated in the Finnish Programme that the short-term impacts of the Act 1443/2006 through diversifying farm operations and creating and developing micro-enterprises will be mainly enterprise-specific. The flexibly defined measures of the Act are assessed to have positive impacts to rural environment and to the human health, because by supporting modern production technologies and implementation of alternative energy production can ecologically

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<sup>31</sup> Basis for this support category is Articles 52(a)(ii) and 54 of Council Regulation (EC) No 1698/2005, as well as Annex II to Commission Regulation (EC) No 1974/2006.

sustainable rural development and production of quality foodstuffs be promoted. Rural tourism and recreational activities can however cause some problems. Possible conflicts in this measure may arise between the natural environment and business perspectives. The minimisation of conflicts is tried any way achieved in the decision making on support measures.

There seems not to be in Finland great danger that agricultural production by the diversification would, as a whole, decrease noticeably. So, there will be no danger for food shortages this way. Additionally, it shall be noted that one of the historic causes of Rural Development Policy has been agricultural overproduction and the depopulation of, especially, remote rural areas.

According to the Programme's ex ante evaluations the rural development work can improve also the business environment. The diversification and growth of rural business will, in any case, bring new employment opportunities and add to economic prosperity.

On the other hand, the climate change - with rising temperatures and humidity, and increased precipitation - is expected in many ways to change agricultural activity in Finland, perhaps mostly positively, but partly negatively. It may be necessary to support both adoption of new technologies, cultivation methods and the diversification of agriculture. Horticulture is expected to significantly benefit from the climate change. This change with warmer winters may also ease rural areas in Finnish northern circumstances to compete in tourist industry and outdoor activities both in summers but also in Middle and Northern Finland wintertime and it will thus be beneficial also for farms diversified to this sector.<sup>32 33</sup>

The reasons for the climate change are indirectly handled through setting priority to diversification into, among others, wood, biogas and other bioenergy production, and are, surely, continuingly being responded by EU:s legislation, in the first place, inside environmental policy sector and then also, among other, CAP and its second pillar.

## SUMMARY

Finnish National Report

LL.D. Eero Henrik Nordberg

Finnish rural policy has aimed, even from the latter part of 1980s, to preserve a viable and active countryside. For this purpose it has been important to improve the preconditions for living, work and business in the rural areas. For the current programming period 2007-2013 of the EU's rural policy Finland has one national rural development strategy and two rural development programmes, one for Mainland Finland and one for the Province of Åland.

The objectives for Mainland Finland are to preserve a viable and active countryside, improve the environment, and ensure the sustainable use of renewable natural resources. This Programme includes the following measures under axis 3 "The quality of life in rural areas and diversification of the rural economy": diversification into non-agricultural activities; support for the creation and development of enterprises; encouragement of tourism activities; basic services for the economy and rural population; village renewal and development; conservation and upgrading of the rural heritage; and training and information. According to the programme will be

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<sup>32</sup> E.g. there are 300,000 hunters, and about 2 million people enjoy fishing in their free time (Finnish Forest Research Institute, 2005). Multifunctional entrepreneurship e.g. in tourism and outdoor activities, such as hiking and camping, offer good opportunities also for farms specialized in forestry to diversify also to those services and thus creating new jobs.

<sup>33</sup> ib. Program 2007-2013 s. 44

supported investments, development and start-up of enterprises and various kinds of development projects.

The general rules of support for rural development are laid down in Council Regulation 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD). The Act on Support for rural development (1443/2006) covers the supports concerning the implementation of Finnish Rural Development Policy for especially in the framework of axis 3 and also axis 4 "Leader approach" in the above Regulation (EC). The Act applies to such support for rural development which is funded from the Community and corresponding national funds or entirely from national funds. So, the Act targets, among others, on supporting on/off farm diversification into non-agricultural activities, and supporting for creation and development of micro-enterprises which already practice such activities in rural areas.

Enterprise supports are granted as start-up, investment and development aids to agricultural enterprises (aid beneficiary being a member of the farm household) for extending the holdings activity outside agriculture and also, when already diversified, for further proceeding with the extension. Corresponding supports can be granted also for above mentioned micro-enterprises for starting up or expanding its activity. Additionally investment support and development support can be granted for improving its production and quality of the products and internationalisation of the activity. Development support can be given here also for acquisition of expert services and training in support of the operating conditions and competitiveness of the enterprise and developing cooperation between enterprises.

SME enterprises can only be given investment and development support for improving the productivity of entrepreneurial activity in primary processing and placing on the market (of an agricultural product), improving the quality of the products and internationalisation of the activity.

There is not need, though with the exception of some regulated trade, to a special permit or licence to be obtained from an authority for the rural diversification. Obligation to entry into trade register exists for corporations. Generally entrepreneurs, except in so called self-supporting trades, have to submit a notice to the authority. On the other hand, in case of practising entrepreneurship on leased land, diversification shall not be contrary to the land lease contract. Because rural areas are mostly outside detailed plans, there are normally no special difficulties in getting building/action permit, with the exception of shorelines (in practise extending 100 to 200 meters from the strand site) where exist a basic prohibition of new building. The latter, however, does not concern building for agricultural and forestry purposes.

The on going climate change is expected to change in many ways agricultural activity in Finland, mostly positively, but partly negatively with consequent risks of erosion and the release and leaching of nutrients from soil to especially to waters. It will be necessary to direct support not only to the adoption of new technologies and cultivation methods in agriculture but also for rural diversification. Horticulture is expected to significantly benefit from the climate change. Warmer winters will ease rural areas in Finnish northern circumstances to compete in entrepreneurship in tourist industry both in summers but also in Middle and Northern Finland wintertime, and thus be beneficial also for farms diversifying to this sector.