

REGULATION (EEC) No 729/70 OF THE COUNCIL

of 21 April 1970

on the financing of the common agricultural policy

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 209 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament¹;

Having regard to the Opinion of the Economic and Social Committee;

Whereas by means of Regulation No 25² on the financing of the common agricultural policy the Council established the European Agricultural Guidance and Guarantee Fund which forms part of the Communities' Budget; whereas that Regulation laid down under Title I the principles which should apply after the transitional period;

Whereas at the single market stage, in view of the fact that price systems are standardised and the agricultural policy is a Community policy; the financial consequences devolve upon the Community; whereas, in accordance with that principle, as laid down in Article 2 (2) of that Regulation, refunds on exports to third countries, intervention aimed at stabilising agricultural markets, and common measures adopted in order to achieve the objectives set out in Article 39 (1) (a) of the Treaty, including structural adaptation required for the proper working of the common market, are financed by the Fund;

Whereas, in particular, the principle should be maintained that the Fund should include a Guarantee Section for the expenditure of the common organisation of the agricultural markets and a Guidance Section for common expenditure relating to

agricultural structure; whereas the Commission is responsible for the administration of the Fund and whereas close co-operation between Member States and the Commission is provided for within a Committee for the European Agricultural Guidance and Guarantee Fund;

Whereas in accordance with Article 2 (2) of Regulation No 25, which substitutes the concept of financing by the Community for that of expenditure eligible for financing by the Fund, a new system should be established under which funds will no longer be advanced by the Member States but by the Community;

Whereas as regards the Guidance Section the Council must later decide, according to the procedure laid down in Article 43 of the Treaty, on the common measures to be taken and must determine their scope, financial incidence and other features;

Whereas under certain conditions it is necessary to keep in force those provisions of Council Regulation No 17/64/EEC³ of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund which make it possible to ensure the continuity of the Community financing of measures intended to improve agricultural structure;

Whereas measures must be taken to prevent and deal with any irregularities and to recover the amounts lost as a result of such irregularities or negligence; whereas the financial responsibility for such irregularities or negligence must be determined;

Whereas Community expenditure must be made subject to close supervision; whereas, in addition to supervision carried out by Member States on their own initiative, which remains essential, provision

¹ OJ No C 2, 8.1.1970, p. 25.

² OJ No 30, 24.4.1962, p. 992/62.

³ OJ No 34, 27.2.1964, p. 586/64.

should be made for verification by officials of the Commission and for it to have the right to enlist the help of Member States;

Whereas the extent of Community financing makes it necessary for the Council and the European Parliament to be kept regularly informed by means of financial reports;

Whereas the system of financing set out in Article 2 (2) of Regulation No 25 should be brought into effect simultaneously with the assignment to the Community of levies and other receipts as its own resources as required under Article 2. (1) of that Regulation;

HAS ADOPTED THIS REGULATION:

Article 1

1. The European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund') shall, form part of the budget of the Communities.

It shall comprise two sections:

- the Guarantee Section;
- the Guidance Section.

2. The Guarantee Section shall finance:

- (a) refunds on exports to third countries;
- (b) intervention intended to stabilise the agricultural markets.

3. The Guidance Section shall finance common measures adopted in order to achieve the objectives set out in Article 39 (1) (a) of the Treaty, including structural adaptation necessary for the proper working of the common market. However, such measures shall not take the place of the activities of the European Investment Bank and the European Social Fund.

4. Expenditure relating to administrative costs and personnel borne by Member States and by recipients of aid from the Fund shall not be taken over by the Fund.

Article 2

1. Refunds on exports to third countries, granted in accordance with the Community rules within the framework of the common organisation of agricultural markets, shall be financed under the terms of Article 1 (2) (a).

2. The Council, acting by a qualified majority on a proposal from the Commission, shall, as far as is necessary, adopt the procedure for financing these refunds.

Article 3

1. Intervention intended to stabilise the agricultural markets, undertaken according to Community rules within the framework of the common organisation of agricultural markets, shall be financed under Article 1 (2) (b).

2. The Council, acting by a qualified majority on a proposal from the Commission, shall before 1 January 1972 lay down the general rules for financing such intervention which are necessary for the application of paragraph 1.

3. The provisions adopted in pursuance of Articles 5 and 6 of Regulation No 17/64/EEC, and those of Council Regulation (EEC) No 1600/68¹ of 15 October 1968 on the financing by the European Agricultural Guidance and Guarantee Fund of the expenditure arising from the special measures taken by the Italian Republic on the importation of feed grain, shall remain applicable in respect of such intervention up to and including 30 June 1972 at the latest.

The Council, acting by a qualified majority on a proposal from the Commission before the end of 1970, shall amend those provisions to ensure that they are in agreement with the provisions of this Regulation and shall supplement them by provisions for their implementation.

Article 4

1. Member States shall designate the authorities and bodies which they shall empower to effect, from the date of application of this Regulation, the expenditure referred to in Articles 2 and 3. They shall communicate to the Commission, as soon as possible after the entry into force of this Regulation, the following particulars concerning those authorities and bodies:

- their name and, where appropriate, their statutes;
- the administrative and accounting conditions in accordance with which payments are made relating to the implementation of Community rules within the framework of the common organisation of agricultural markets.

¹ OJ No L 253, 16.10.1968, p. 1.

They shall inform the Commission forthwith of any change in those particulars.

2. The Commission shall make available to Member States the necessary credits so that the designated authorities and bodies may, in accordance with Community rules and national legislation, make the payments referred to in paragraph 1.

The Member States shall ensure that those credits are used without delay and solely for the purposes laid down.

3. The authorities and bodies shall at least once a year draw up reports and a summary of accounts relating to the expenditure referred to in paragraph 1.

Member States shall communicate those reports and accounts to the Commission and shall attach to them to any report or part of a report drawn up by the competent auditing or supervisory authorities dealing with such expenditure.

4. Detailed rules for the application of this Article shall, as far as is necessary, be adopted in accordance with the procedure laid down in Article 13.

Article 5

1. Member States shall at regular intervals transmit to the Commission the following documents concerning the authorities and bodies referred to in Article 4 and relating to transactions financed by the Guarantee Section:

- (a) statements of cash holdings and estimates of financial needs;
- (b) annual accounts, accompanied by the documents required for making up the balance sheets.

2. The Commission, after consulting the Fund Committee referred to in Article 11,

(a) shall decide:

- at the beginning of the year, on the basis of the documents referred to in paragraph 1 (a), on an advance payment for the authorities and bodies not exceeding one third of the crédits entered in the budget;
- during the year, on additional payments intended to cover expenditure to be borne by an authority or body;

(b) shall, before the end of the following year, on the basis of the documents referred to in paragraph 1 (b), make up the accounts of the authorities and bodies.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13.

Article 6

1. Common measures decided on by the Council, in accordance with the procedure laid down in the third subparagraph of Article 43 (2) of the Treaty in order to achieve the objectives set out in Article 39 (1) (a) of the Treaty including the structural changes necessary for the proper working of the common market, shall be financed under the terms of Article 1 (3) of this Regulation.

2. At the same time as it decides on a common measure, the Council shall determine:

- (a) the objective to be attained and the nature of the projects to be envisaged;
- (b) the contribution of the Fund to that common measure;
- (c) the estimated total cost of the common measure and the estimated time required for its execution;
- (d) the economic and financial conditions;
- (e) the necessary provisions concerning procedure.

3. Common measures shall be decided on in the light of the Council Decision of 4 December 1962¹ on the co-ordination of agricultural structure policies.

4. The provisions of Part II of Regulation No 17/64/EEC, with the exception of Article 14 (1) (a) and Article 16, shall continue to apply.

They shall cease to apply when the annual amount for the Community financing of the common measures referred to in paragraph 2 reaches 285 million units of account.

Insofar as those provisions are still applicable on 1 January 1972, the residual credits shall be used within the scope of the first subparagraph within the limits of the sums available from the amount referred to in the second subparagraph.

In any event they shall continue to apply for the completion of transactions decided previously. They shall also continue to apply to the use of credits entered in budgets prior to the 1972 budget; in the use of these credits common measures shall have priority, without prejudice to the provisions of

¹ OJ No 136, 17.12.1962, p. 2892/62.

Council Regulations (EEC) No 2010/68 of 9 December 1968¹ on granting aid from the European Agricultural Guidance and Guarantee Fund, Guidance Section, for the year 1969 and (EEC) No 1534/69² of 29 July 1969 on granting aid from the European Agricultural Guarantee and Guidance Fund, Guidance Section, for the year 1970. Detailed rules for the application of this subparagraph shall be adopted, as far as is necessary, in accordance with the procedure laid down in Article 13.

5. From 1 January 1972, the credits of the Guidance Section of the Fund shall amount to 285 million units of account per year. This amount may be increased by the Council, acting according to the procedure laid down in the third subparagraph of Article 43 (2) of the Treaty, only for common measures provided for in paragraph 2.

Article 7

1. The Commission shall decide on aid from the Fund after consulting the Fund Committee referred to in Article 11 on the financial aspects.

2. The Commission shall determine the detailed rules for the application of each of the common measures, after consulting the Standing Committee on Agricultural Structure, and after consulting the above-mentioned Fund Committee on the financial aspects.

Article 8

1. The Member States in accordance with national provisions laid down by law, regulation or administrative action shall take the measures necessary to:

- satisfy themselves that transactions financed by the Fund are actually carried out and are executed correctly;
- prevent and deal with irregularities;
- recover sums lost as a result of irregularities or negligence.

The Member States shall inform the Commission of the measures taken for those purposes and in particular of the state of the administrative and judicial procedures.

2. In the absence of total recovery, the financial consequences of irregularities or negligence shall be borne by the Community, with the exception of the

consequences of irregularities or negligence attributable to administrative authorities or other bodies of the Member States.

The sums recovered shall be paid to the paying authorities or bodies and deducted by them from the expenditure financed by the Fund.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall lay down general rules for the application of this Article.

Article 9

1. Member States shall make available to the Commission all information required for the proper working of the Fund and shall take all suitable measures to facilitate the supervision which the Commission may consider it necessary to undertake within the framework of the management of Community financing, including inspections on the spot.

Member States shall communicate to the Commission provisions laid down by law, regulation or administrative action which they have adopted for the application of legal acts of the Community relating to the common agricultural policy insofar as those acts have financial consequences for the Fund.

2. Without prejudice to the supervision effected by Member States in accordance with national provisions laid down by law, regulation or administrative action and without prejudice to the provisions of Article 4 or to the provisions of Article 206 of the Treaty, or to any inspection organised on the basis of Article 209 (c) of the Treaty, officials appointed by the Commission to carry out inspections on the spot shall have access to the books and all other documents relating to expenditure financed by the Fund. They may in particular check:

- (a) whether administrative practices are in accordance with Community rules;
- (b) whether the requisite supporting documents exist and tally with the transactions financed by the Fund;
- (c) the conditions under which transactions financed by the Fund are carried out and checked.

The Commission shall give due notice before the inspection is carried out to the Member State concerned or to the Member State on whose territory it is to take place. Officials of the Member State concerned may take part in the inspection.

At the request of the Commission and with the agreement of the Member State, inspections or

¹ OJ No L 299, 13.12.1968, p. 1.

² OJ No L 189, 2.8.1969, p. 1.

inquiries concerning the transactions referred to in this Regulation shall be carried out by the competent authorities of that Member State. Officials of the Commission may also participate.

To make verification more effective the Commission may, with the agreement of the Member States concerned, arrange for administrative authorities of those States to participate in certain inspections or inquiries.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall, as far as is necessary, lay down general rules for the application of this Article.

Article 10

Before 1 July of each year, the Commission shall submit to the Council and to the European Parliament a financial report on the administration of the Fund during the preceding financial year and, in particular, on the state of its resources and the nature of its expenditure and the conditions for achieving Community financing.

Article 11

The Committee for the European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund Committee') shall assist the Commission in administering the Fund, as laid down in Articles 12 to 15.

Article 12

1. The Fund Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Fund Committee by not more than five officials.

The Fund Committee shall have a representative of the Commission as Chairman.

2. Where the procedure laid down in Article 13 is applied, the votes of Member States shall be weighted as laid down in Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 13

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Committee by the Chairman, either on his own

initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be adopted. The Committee shall deliver its Opinion on those measures within a time limit set by the Chairman according to the urgency of the matters. An opinion shall be adopted by a majority of twelve votes.

3. The Commission shall adopt measures which shall be immediately applicable. However, if such measures are not in accordance with the Opinion delivered by the Committee, they shall at once be communicated by the Commission to the Council. In that case, the Commission may defer for not more than one month from the date of such communication, application of the measures which it has adopted.

The Council, acting by a qualified majority, may adopt a different decision within one month.

Article 14

1. The Fund Committee shall be consulted:

- (a) in cases where provision is made for it to be consulted;
- (b) for the assessment of the Fund's credits to be entered in the Commission's estimate for the coming financial year and, if necessary, in additional estimates;
- (c) on draft proposals from the Commission to the Council concerning the application of this Regulation and draft reports on the Fund to be submitted to the Council.

2. The Fund Committee may examine any other question referred to it by its Chairman either on his own initiative or at the request of a representative of a Member State.

It shall be informed regularly of the activities of the Fund.

Article 15

The Chairman shall convene the Fund Committee.

Secretarial services shall be provided for the Fund Committee by the Commission.

The Fund Committee shall lay down its own rules of procedure.

Article 16

1. The system laid down in Articles 1 to 7 shall be applicable for expenditure financed from 1 January 1971.

Regulation No 17/64/EEC and the provisions adopted for its application shall be repealed with effect from 1 January 1971, without prejudice to the provisions of Article 3 (3) and Article 6 (4) of this Regulation or to Article 14 of Council Regulation

(EEC) No 728/70¹ of 21 April 1970 laying down additional provisions for the financing of the common agricultural policy.

2. If the Decision of 21 April 1970² on the replacement of financial contributions from Member States by the Communities' own resources has not entered into force by 1 January 1971, the date of 1 January 1971 which appears in paragraph 1 shall be replaced by the date of the entry into force of that Decision.

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

Done at Luxembourg, 21 April 1970.

For the Council

The President

P. HARMEL

¹ OJ No L 94, 28.4.1970, p. 9.

² OJ No L 94, 28.4.1970, p. 19.