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► **M3** COMMISSION REGULATION (EC) No 296/96

of 16 February 1996

on data to be transmitted by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), and laying down certain detailed rules of application for Council Regulation (EC) No 1259/1999 ◀

(OJ L 39, 17.2.1996, p. 5)

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► <u>M1</u>	Commission Regulation (EC) No 1391/97 of 18 July 1997	L 190	20	19.7.1997
► <u>M2</u>	Commission Regulation (EC) No 2236/98 of 16 October 1998	L 281	9	17.10.1998
► <u>M3</u>	Commission Regulation (EC) No 2761/1999 of 22 December 1999	L 331	57	23.12.1999

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on data to be transmitted by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), and laying down certain detailed rules of application for Council Regulation (EC) No 1259/1999

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾, as last amended by Regulation (EC) No 1287/95⁽²⁾, and in particular Articles 4 and 5 thereof,

Having regard to Council Decision 94/729/EC of 31 October 1994 on budgetary discipline⁽³⁾, and in particular Article 13 thereof,

Whereas Article 4 (5) of Regulation (EEC) No 729/70 stipulates that the Member States must themselves mobilize the funds to cover the expenditure of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, hereafter referred to as the 'EAGGF Guarantee Section'; whereas under the same Regulation, the Commission grants only monthly advances against booking of the expenditure effected by the Member States;

Whereas, with a view to ensuring the proper management of the appropriations entered in the budget of the Communities for the EAGGF Guarantee Section, each paying agency must keep accounts relating exclusively to expenditure to be financed by the EAGGF Guarantee Section;

Whereas the transmission by the Member States to the Commission of all data relating to the expenditure to be financed by the EAGGF Guarantee Section must be organized; whereas, in this respect, it is appropriate to recognize that the communication of data relating to quantities should benefit from a certain margin of imprecision which may be explained, among other things, by administrative difficulties linked to their establishment; whereas, this applies also to the estimates of expenditure which, while they must be reliable, are by their nature of an approximative character; whereas, furthermore, it is inappropriate to request the communication of data relating to recoveries where this would constitute a heavy administrative burden;

Whereas the common agricultural regulations include deadlines for payment of aids to beneficiaries by Member States; whereas all payments effected after those deadlines, and for which the delay in payment is unjustified, must be regarded as ineligible, and therefore cannot, in principle be the subject of an advance on the booking of expenditure; whereas, however, in order to modulate the financial impact in proportion to the delay incurred in payment, the reduction in the advances should be graduated as a function of the size of the delay recorded;

(1) OJ No L 94, 28. 4. 1970, p. 13.

(2) OJ No L 125, 8. 6. 1995, p. 1.

(3) OJ No L 293, 12. 11. 1994, p. 14.

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Whereas, where Member States fail to meet the deadlines agreed for the notification of data relating to expenditure or to ensure the consistency of such data, the Commission may, pursuant to Article 13 of Decision 94/729/EC defer accordingly the payment of the advances against booking;

Whereas Article 4 of Council Regulation (EEC) No 1883/78 of 2 August 1978 on general rules on the financing of EAGGF Guarantee Section intervention⁽¹⁾, as last amended by Regulation (EC) No 1571/93⁽²⁾, stipulates that where an intervention measure entails buying-in and storage of products, the amount financed is to be determined by the annual accounts established by the intervention agencies; whereas Council Regulation (EEC) No 3492/9⁽³⁾ laid down rules and conditions governing these accounts; whereas the procedures according to which the financing of such measures fits into the system of advances against booking should be made clear;

Whereas the last subparagraph of Article 5 (2) (a) of Regulation (EEC) No 729/70 stipulates that expenditure for October is related to October if made between 1 and 15 October and to November if made from 16 to 31 October; whereas it is preferable to avoid the division of the accounts provided for in Article 4 of Regulation (EEC) No 1883/78, in view of their complexity; whereas, accordingly, it should be stipulated that expenditure deriving from September operations is to be treated in the accounts by the paying agencies on the basis of 50% in respect of the first 15 days of October, and the rest, including any adjustments or corrections, in respect of the last 16 days of October;

Whereas Article 5a of Regulation (EEC) No 729/70 authorizes remuneration of the funds mobilized by certain Member States; whereas procedures for declaration by these Member States of interest chargeable to the Community should be laid down;

Whereas the concept of expenditure to be declared monthly by the paying agencies should be properly defined;

Whereas a uniform presentation of documents to be sent in by the Member States is needed; whereas in view of the need for frequent adaptation of such documents to changes in management requirements, the Commission must be in a position to adopt and adapt without delay, under a simplified procedure, the forms to be used;

Whereas in order to facilitate the application of the provisions in this matter it is advisable to replace Commission Regulation (EEC) No 2776/88⁽⁴⁾, as last amended by Regulation (EEC) No 775/90⁽⁵⁾, with a new Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee of the European Agricultural Guidance and Guarantee Fund (EAGGF),

HAS ADOPTED THIS REGULATION:

Article 1

1. After approval of the advances, in accordance with the last subparagraph of Article 5 (2) (a) of Regulation (EEC) No 729/70, the Commission shall place at the disposal of the Member States, within the framework of the budget appropriations, the funds needed to cover expenditure to be financed by the EAGGF Guarantee Section, on an account opened for that purpose by each Member State with its Treasury or any other financial institution.

2. The name and number of this account shall be notified by each Member State to the Commission.

⁽¹⁾ OJ No L 216, 5. 8. 1978, p. 1.

⁽²⁾ OJ No L 154, 25. 6. 1993, p. 46.

⁽³⁾ OJ No L 337, 4. 12. 1990, p. 3.

⁽⁴⁾ OJ No L 249, 9. 9. 1988, p. 9.

⁽⁵⁾ OJ No L 83, 30. 3. 1990, p. 85.

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Article 2

Each paying agency shall keep accounts covering only the use of the funds made available to it to defray the expenditure referred to in Article 1 (2) of Regulation (EEC) No 729/70.

Article 3

1. Not later than the second working day of each week, the Member States shall notify the Commission by ►**M1** fax or electronically ◀ of the total expenditure effected from the beginning of the month until the end of the preceding week.

Two notifications shall be made where the week runs over two months.

2. The final notification of each month shall include, in addition to details of expenditure, any information explaining any substantial difference between the estimates drawn up pursuant to paragraph 5 and expenditure actually incurred.

3. For the 10th day of each month, the Member States shall communicate to the Commission, by ►**M1** fax or electronically ◀, details of the total amount of expenditure effected during the preceding month.

However, the communication in relation to the expenditure effected between 1 and 15 October must be notified for the 25th day of the same month at the latest.

4. The notification referred to in paragraph 3 shall include a breakdown by chapters of the nomenclature of the budget of the European Communities.

However, where budgetary monitoring is subject to exceptional conditions, the Commission may request a more detailed breakdown.

5. For the 20th day of each month, the Member States shall transmit to the Commission, electronically and in two paper copies, a set of documents permitting the booking to the Community budget of expenditure effected during the preceding month.

However, the set of documents permitting the booking of expenditure effected between 1 and 15 October is to be submitted by 10 November, at the latest.

6. The set of documents referred to in paragraph 5 shall consist of:

(a) a statement, established by each paying agency, broken down according to the nomenclature of the budget of the European Communities and by type of expenditure, of:

- expenditure effected during the preceding month,
- total expenditure effected from the beginning of the year until the end of the preceding month,
- the quantities (tonnes, hectolitres, hectares, head, etc.) to which the expenditure referred to in the second indent relates, where mentioned in the detailed budgetary nomenclature,
- estimates of expenditure in accordance with a list drawn up by the Commission after discussions in the EAGGF Committee. The estimates may cover, as appropriate:
 - the current month and the following two months,
 - the current month, the following two months and to the end of the year;

(b) where appropriate, a summary of the data referred to in (a);

(c) where appropriate, justification for the difference between expenditure effected during the preceding month as indicated in the current communication and as indicated in the communication referred to in paragraph 3.

▼M3

6a. Twice a year, when presenting the documents as referred to in paragraph 5 for the booking against the Community budget of expenditure incurred, in May and November for the table referred to under point (a) and, in April and October for the tables referred to under point (b), Member States shall enclose:

- (a) a table comprising an extract from the debtors ledger and showing the total of all debts identified but not yet recovered at the end of April and at the end of the financial year in respect of the EAGGF Guarantee Section;
- (b) tables showing the situation, at the end of April and at the end of the financial year, of amounts withheld pursuant to Articles 3 and 4 of Regulation (EC) No 1259/1999 and the use made of those amounts in accordance with Article 5(2) of that Regulation.

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7. Expenditure for October shall be related to October if effected from 1 to 15 October and to November if effected from 16 to 31 October.

▼M2

8. (a) Member States participating in the euro may choose, during the transitional period referred to in the sixth indent of Article 1 of Regulation (EC) No 974/98, to keep the accounts at the level of the paying agency:

- either solely in euro,
- in euro for the payments effected in euro and in units of national currency for the payments effected in units of national currency,
- or solely in units of national currency.

(b) The choice of currency for the accounts as well as the declarations to be furnished to the EAGGF by the participating Member States must be maintained for the whole of the financial year. However for the first year of application this choice applies from 1 January 1999.

(c) The same choice must be maintained for the declarations made under the clearance of accounts procedure.

9. (a) The paying agencies of non-participating Member States in the euro must maintain separate accounts according to the currency in which the payments have been made to the beneficiaries. The same separation must be maintained for the declarations made under the clearance of accounts procedure.

(b) However, if the paying agency of a non-participating Member State is capable of converting into national currency the amounts paid to beneficiaries in euro at the exchange rate applied on the day of payment, the complete accounts of that paying agency may be maintained in national currency.

Recoveries, where arising, of amounts paid in euro must correspond to the national currency booked on the day of payment.

10. If, in accordance with paragraphs 8 and 9, the paying agencies of a Member State may choose between the euro, units of national currency and the national currency for their accounts, it is not obligatory that they all adopt the same choice.

11. The communications referred to in Article 3 shall be established in the currency or currencies in which the accounts are maintained.

▼B*Article 4*

1. On the basis of data sent in accordance with Article 3, the Commission shall adopt decisions and make the monthly advances against booking of expenditure, without prejudice to the provisions Article 13 of Decision 94/729/EC.

▼M2

1a. The advances against the booking of expenditure of the EAGGF-Guarantee are:

- (a) drawn up and paid in euro to participating Member States;
- (b) for the non-participating Member States, drawn up and paid:
 - in euro for the payments effected by the Member State in euro,
 - in national currency for the payments effected by the Member State in national currency.

However, if the conversion to national currency of payments in euro is made at the exchange rate applied on the day of payment to the beneficiary (as provided for in Article 3(9)(b)), the advances relating to these payments in euro may also be effected in national currency;

- (c) paid in units of national currency or in national currency for the expenditure effected by the participating and non-participating Member States between 16 October and 30 November 1998.

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2. Advances against booking shall be reduced for expenditure effected after the deadlines laid down as follows:

- (a) where expenditure effected after the deadlines is equal to 4 % or less of the expenditure effected before the deadlines, no reduction shall be made, irrespective of the number of months' delay,
- (b) above the threshold of 4 %, all further expenditure effected with a delay of up to:
 - one month shall be reduced by 10 %,
 - two months shall be reduced by 25 %,
 - three months shall be reduced by 45 %,
 - four months shall be reduced by 70 %,
 - five months or more shall be reduced by 100 %.

However, the Commission will apply a different time scale and/or lower reductions or none at all, if exceptional management conditions are encountered for certain measures, or if well-founded justifications are introduced by the Member States.

The reductions referred to in this Article shall be made in accordance with the rules laid down in Article 13 of Decision 94/729/EC.

3. Checks on compliance with the deadlines for the purposes of the payment of advances against booking shall be made three times each budget year:

- on expenditure effected by 31 January,
- on expenditure effected by 30 April,
- on expenditure effected by 31 August.

Any overrun of deadlines during September and October shall be taken into account in the accounts clearance decision except where noted before the final decision of the financial year relating to advances.

4. Any reductions made pursuant to Article 13 of Decision 94/729/EC and particularly those resulting from overruns of deadlines shall be made without prejudice to the subsequent accounts clearance decision.

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5. The Commission, having informed the Member States concerned, may defer payment of the advances to the Member States as provided for in Article 5 (2) (a) of Regulation (EEC) No 729/70 where the notifications referred to in Article 3 arrive late or contain discrepancies which necessitate supplementary verification.

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6. Where the documents referred to in Article 37(1) of Regulation (EC) No 1750/1999 are not received by the Commission by 30 September each year, the Commission shall, after notifying the Member State concerned, suspend payment of the advance relating to expenditure incurred in accordance with that Regulation for the month of August.

Where those documents are received from 1 to 15 October, payment of the advance referred to in the previous subparagraph shall be deferred by the same number of days as the documents are received late.

Where the documents are received after 15 October, payment of the advances relating to expenditure incurred in accordance with Regulation (EC) No 1750/1999 for the months of August, September and October shall be suspended until the advance relating to the expenditure of the month of February of the following year.

These suspended amounts shall be covered by a global commitment in respect of the financial year of suspension.

▼B*Article 5*

1. The expenditure referred to in Article 4 (1) of Regulation (EEC) No 1883/78 shall be determined according to the provisions of Regulation (EEC) No 3492/90.

This expenditure, that arising from the application of Council Regulation (EEC) No 3730/87⁽¹⁾, and that referred to in Article 37 of Council Regulation (EEC) No 822/87⁽²⁾, must be calculated on the basis of supporting statements according to a uniform method established by the Commission pursuant to Article 8.

2. The amounts of expenditure referred to in paragraph 1 shall be entered in the accounts by the paying agencies during the month following that to which the operations refer. The operations to be covered in the accounts adopted at the end of each month shall be those occurring between the beginning of the financial year and the end of that month.

However, for the operations carried out in September, 50% of the expenditure shall be entered in the accounts in respect of October, the balance in respect of November.

Supporting statements concerning the operations shall be attached to the sets of documents to be sent to the Commission for 10 November and for 20 December.

3. For the overall depreciation amounts established in accordance with Article 8 (5) of Regulation (EEC) No 1883/78, paragraph 2 shall not apply, and such amounts shall be entered in the accounts on dates determined by the regulation providing for them.

▼M3*Article 6*

1. Amounts withheld in accordance with Articles 3 and 4 of Regulation (EC) No 1259/1999 shall be used by the end of the third financial year following that during which they are withheld for the payment of additional Community support measures in accordance with Article 5(2) of that Regulation.

⁽¹⁾ OJ No L 352, 15. 12. 1987, p. 1.

⁽²⁾ OJ No L 84, 27. 3. 1987, p. 1.

▼M3

2. Amounts withheld and not paid pursuant to paragraph 1 shall be deducted from the advances related to the expenditure of October of the financial year concerned.

▼B*Article 7***▼M1**

1. Expenditure declared in respect of a given month must fall within payments and receipts actually effected during this month. However:

(a) expenditure which can be paid prior to implementation of the provision permitting it to be wholly or partially borne by the EAGGF Guarantee Section may only be declared:

- in the month during which the provision was implemented,
or
- in the month following implementation of that provision.

(b) expenditure part-financed by national funds must be declared by, at the latest, the second month following payment to the beneficiary.

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(c) expenditure to be declared shall not take account of the reductions made pursuant to Articles 3 and 4 of Regulation (EC) No 1259/1999.

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Expenditure declared in accordance with the first subparagraph may include corrections to data reported for previous months in the same year.

For a year 'n', account shall be taken of expenditure declared by the Member States in accordance with the present paragraph from 16 October of year 'n - 1' to 15 October of year 'n'.

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2. For the purposes of the first subparagraph of paragraph 1, and without prejudice to the specific provisions of Community rules, the following dates shall be referred to:

(a) for expenditure referred to in Article 5 (1), the dates on which the paying agency enters them into the accounts in accordance with paragraph 2 of that Article;

(b) for the amounts referred to in Article 10 (6) of Commission Regulation (EEC) No 3813/89⁽¹⁾:

- for expenditure to be booked under the first year, the date on which the capitalized payments were made,
- for expenditure to be booked under following years, the sixth month of the financial year;

(c) for all other types of expenditure:

- the date on which the account of the agency has been debited, or,
- the date on which the agency concerned has issued and sent the payment document to a financial institute or to the beneficiary.

3. Payment orders not executed and payments debited to the account and then re-credited shall be shown in the accounts as deductions from expenditure in respect of the month during which the failure to execute or the cancellation is reported to the paying agency.

4. Where payments due under the EAGGF Guarantee Section are encumbered by claims, they shall be deemed to have been effected in their entirety within the meaning of paragraph 1:

- on the date of the payment of the sum still due to the beneficiary, if the claim is less than the expenditure settled,
- on the date of the settlement of the expenditure, if the latter is less than or equal to the claim.

⁽¹⁾ OJ No L 371, 20. 12. 1989, p. 17.

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5. Cumulative data relating to expenditure that can be referred to a specific year, to be submitted to the Commission by 10 November, may be corrected only in the annual accounts to be sent to the Commission in accordance with Article 5 (1) (b) of Regulation (EEC) No 729/70.

6. However, corrections effected by the Commission to data referred to in Article 5 concerning the full year shall be notified to the EAGGF Committee and indicated in an annex to a decision relating to advances and shall be entered into the accounts by the agencies during the month indicated by the said decision.

Article 8

The form of the documents referred to in ►**M3** Article 3(6) and (6a) ◀ and Article 5 (1) shall be determined by Commission decision taken after consultation of the Committee.

Article 9

Regulation (EEC) No 2776/88 is hereby repealed with effect from 16 October 1995.

Article 10

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

It shall apply for the first time to the expenditure for the second half of October 1995.

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