

**COMMISSION REGULATION (EC) No 296/96  
of 16 February 1996**

**on data to be forwarded by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the Agricultural Guidance and Guarantee Fund (EAGGF) and repealing Regulation (EEC) No 2776/88**

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<sup>(1)</sup>, as last amended by Regulation (EC) No 1287/95<sup>(2)</sup>, and in particular Articles 4 and 5 thereof,

Having regard to Council Decision 94/729/EC of 31 October 1994 on budgetary discipline<sup>(3)</sup>, 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;

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<sup>(4)</sup>, as last amended by Regulation (EC) No 1571/93<sup>(5)</sup>, 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 3492/90<sup>(6)</sup> 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;

<sup>(1)</sup> OJ No L 94, 28. 4. 1970, p. 13.

<sup>(2)</sup> OJ No L 125, 8. 6. 1995, p. 1.

<sup>(3)</sup> OJ No L 293, 12. 11. 1994, p. 14.

<sup>(4)</sup> OJ No L 216, 5. 8. 1978, p. 1.

<sup>(5)</sup> OJ No L 154, 25. 6. 1993, p. 46.

<sup>(6)</sup> OJ No L 337, 4. 12. 1990, p. 3.

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 775/90<sup>(2)</sup>, 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.

#### *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 fax 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 telecopy, 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.

<sup>(1)</sup> OJ No L 249, 9. 9. 1988, p. 9.

<sup>(2)</sup> OJ No L 83, 30. 3. 1990, p. 85.

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.

#### 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.

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.

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.

#### 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<sup>(1)</sup>, and that referred to in Article 37 of Council Regulation (EEC) No 822/87<sup>(2)</sup>, 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.

#### Article 6

Those Member States for which the charging of interest has been approved pursuant to Article 5a of Regulation (EEC) No 729/70 shall enter such interest into the accounts, in accordance with the rules fixed in Commission Regulation (EEC) No 2775/88 of 7 September 1988, laying down detailed rules of application of Article 5a of Council Regulation (EEC) No 729/70<sup>(3)</sup>.

<sup>(1)</sup> OJ No L 352, 15. 12. 1987, p. 1.

<sup>(2)</sup> OJ No L 84, 27. 3. 1987, p. 1.

<sup>(3)</sup> OJ No L 249, 8. 9. 1988, p. 8.

*Article 7*

1. Expenditure claimed in respect of a given month must fall with payments and receipts actually effected during this month. It may include corrections to the data reported in respect of previous months of the same year.

For a year 'n', account shall be taken of expenditure effected by the Member States from 16 October of year 'n-1' to 15 October of year 'n'.

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<sup>(1)</sup>:

— 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.

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 Article 3 (6) 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.

Done at Brussels, 16 February 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ No L 371, 20. 12. 1989, p. 17.