

COUNCIL REGULATION (EC) No 1258/1999

of 17 May 1999

on the financing of the common agricultural policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Having regard to the opinion of the Court of Auditors⁽⁴⁾,

information on the common agricultural policy and certain evaluation actions should be financed by the 'Guarantee' section of the Fund in order to achieve the objectives set out in Article 33(1) of the Treaty;

- (1) Whereas by means of Regulation No 25 on the financing of the common agricultural policy⁽⁵⁾, the Council established the European Agricultural Guidance and Guarantee Fund (EAGGF), hereinafter referred to as 'the Fund', which forms part of the general budget of the European Communities; whereas that Regulation laid down the principles which should apply for the financing of the common agricultural policy;
- (2) 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 Regulation No 25, refunds on exports to third countries, intervention aimed at stabilising agricultural markets, rural development measures, specific veterinary measures as laid down in Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field⁽⁶⁾, measures intended to provide
- (3) Whereas the 'Guidance' section of the Fund should finance expenditure for certain rural development measures in regions whose development is lagging behind as well as for the rural development Community initiative;
- (4) Whereas the Commission is responsible for the administration of the Fund and whereas close cooperation between Member States and the Commission is provided for within a committee for the Fund;
- (5) Whereas the responsibility for checking the Fund's Guarantee Section expenditure lies, in the first place, with the Member States, which designate the authorities and bodies empowered to effect expenditure; whereas the Member States must carry out this task fully and effectively; whereas the Commission, being responsible for implementing the Community budget, must verify the conditions under which payments and checks have been made; whereas the Commission can only finance expenditure where those conditions offer all necessary guarantees regarding compliance with Community rules; whereas, in a decentralised system of management of Community expenditure, it is essential that the Commission, as the institution responsible for funding, is entitled and enabled to carry out all checks on the management of expenditure it considers necessary and that there should be full and effective transparency and mutual assistance between the Member States and the Commission;
- (6) Whereas, during the clearance of accounts, the Commission is able to determine within a reasonable time the total expenditure to be entered against the Guarantee Section in the general account only if it has satisfactory assurance that the national controls are adequate and transparent and that the paying agencies verify the legality and regularity of the payment requests which they execute; whereas provision should therefore be made for the accreditation of paying agencies by Member States; whereas in

⁽¹⁾ OJ C 170, 4.6.1998, p. 83.

⁽²⁾ Opinion delivered on 6 May 1999 (not yet published in the Official Journal).

⁽³⁾ OJ C 407, 28.12.1998, p. 222.

⁽⁴⁾ OJ C 401, 22.12.1998, p. 3.

⁽⁵⁾ OJ L 30, 20.4.1962, p. 991/60. Regulation as last amended by Regulation (EEC) No 728/70 (OJ L 94, 28.4.1970, p. 9).

⁽⁶⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Decision 94/370/EC (OJ L 168, 2.7.1994, p. 31).

- order to ensure consistency in the standards required for accreditation in the Member States the Commission provides guidance on the criteria to be applied; whereas, for that purpose, it should be stipulated that only expenditure effected by paying agencies accredited by the Member States should be financed; whereas, moreover, in order to ensure the transparency of national controls, in particular as regards authorisation, validation and payment procedures, the number of authorities and bodies to which these responsibilities are delegated should, where appropriate, be restricted taking account of the constitutional arrangements of each Member State;
- (7) Whereas decentralised management of Community funds, in particular following reform of the common agricultural policy, leads to the designation of several paying agencies; whereas, therefore, where a Member State accredits more than one paying agency, it must designate a single contact body to ensure consistency in the management of the funds, to provide liaison between the Commission and the various accredited paying agencies and to ensure that the information requested by the Commission concerning the operations of several paying agencies is made rapidly available;
- (8) Whereas financial resources must be mobilised by the Member States in accordance with the needs of their disbursing agencies, while the Commission makes advance payments against the booking of the expenditure effected by the disbursing agencies; whereas in the framework of rural development measures, genuine advance payments for programme implementation should be provided for; whereas it is appropriate to treat these advance payments according to the financial mechanisms established for advances on the provision for expenditure effected in a reference period;
- (9) Whereas two types of decisions should be established, one concerning the clearance of the Guarantee Section of the Fund, the other determining the consequences, including financial corrections, to be drawn from the results of the checks on conformity, with Community rules, of the expenditures;
- (10) Whereas the checks on conformity and the ensuing clearance decisions will therefore no longer be linked to the implementation of the budget in a particular financial year; whereas the maximum period to which the consequences to be drawn from the checks on conformity may be applied must be determined; whereas, however, the pluriannual character of rural development measures does not allow the application of such a maximum period;
- (11) 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;
- (12) 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, provisions should be made for verification by officials of the Commission and for it to have the right to enlist the help of Member States;
- (13) Whereas information technology needs to be used as fully as possible for producing the information to be sent to the Commission; whereas, when carrying out checks, the Commission must have full and immediate access to information on expenditure held in both documents and electronic files;
- (14) Whereas the extent of Community financing makes it necessary for the European Parliament and the Council to be kept regularly informed by means of financial reports;
- (15) Whereas, with a view to simplifying financial management, it is desirable to bring the financing period of the Fund closer to the financial year as set out in Article 272(1) of the Treaty; whereas carrying out such an operation requires having a clear picture of the funds currently available towards the end of the financial year concerned; whereas, therefore, provision should be made for the Commission to have the powers necessary to adapt the financing period of the Fund where there are enough remaining budgetary resources available;
- (16) Whereas Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾ has been substantially amended on several occasions; whereas, now that new amendments are being made to the said Regulation, it is desirable, in order to clarify matters, that the provisions in question should be recast,
- ⁽¹⁾ OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/96 (OJ L 125, 8.6.1996, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

1. The European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund') shall form part of the general budget of the European 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 market;
- (c) rural development measures outside Objective 1 programmes except the rural development Community initiative;
- (d) the Community's financial contribution towards specific veterinary measures, inspection measures in the veterinary field and programmes for the eradication and monitoring of animal diseases (veterinary measures) as well as towards plant health measures;
- (e) measures intended to provide information on the common agricultural policy and certain evaluation actions of measures financed by the Guarantee Section of the Fund.

3. The Guidance Section shall finance rural development measures which are not covered by paragraph 2, point (c).

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

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

3. The Council, acting by a qualified majority on a proposal from the Commission, shall, as far as is necessary, adopt the procedure for financing the measures referred to in paragraphs 1 and 2.

Article 3

1. Rural development measures outside Objective 1 programmes undertaken in accordance with Community rules shall be financed under Article 1(2)(c).

2. Veterinary and plant health measures undertaken in accordance with Community rules shall be financed under Article 1(2)(d).

3. Information measures and evaluation actions undertaken in accordance with Community rules shall be financed under Article 1(2)(e).

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

Article 4

1. Each Member State shall communicate to the Commission:

- (a) details of the authorities and bodies it accredits to pay the expenditure referred to in Articles 2 and 3, hereinafter referred to as 'paying agencies',
- (b) where more than one paying agency is accredited, details of the authority or body it charges, first, with bringing together the information to be supplied to the Commission and sending it the same, and, second, with promoting the harmonised application of Community rules, hereinafter referred to as the 'coordinating body'.

2. Paying agencies shall be authorities and bodies of the Member States, which, as regards payments in the

areas for which they are responsible, offer sufficient guarantees that:

- (a) the admissibility of claims and compliance with Community rules are checked before payment is authorised;
- (b) the payments effected are correctly and fully recorded in the accounts; and
- (c) the necessary documents are submitted within the time and in the form laid down in Community rules.

3. The paying agencies must hold documents justifying the payments effected and documents concerning the carrying out of the prescribed administrative and physical controls. Where the relevant documents are kept by the bodies responsible for authorising the expenditure, those bodies must transmit reports to the paying agency on the number of checks carried out, their content and the measures taken in the light of the results.

4. Only expenditure effected by accredited paying agencies may be the subject of Community financing.

5. Each Member State shall, taking into account its constitutional and institutional structures, limit the number of accredited paying agencies to the minimum necessary in order to effect the expenditure referred to in Articles 2 and 3 under satisfactory administrative and accounting conditions.

6. Each Member State shall communicate to the Commission the following particulars concerning those paying agencies:

- (a) their name and their statutes;
- (b) the administrative, accounting and internal control conditions under which payments are made relating to the implementation of Community rules within the framework of the common agricultural policy;
- (c) the act of accreditation.

The Commission shall be informed forthwith of any change in those particulars.

7. Where one or more of the conditions for accreditation are not, or are no longer, fulfilled by an accredited paying agency, accreditation shall be withdrawn unless the paying agency makes the

necessary adjustments within a time limit to be fixed in relation to the seriousness of the problem. The Member State concerned shall inform the Commission.

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

Article 5

1. The financial resources required to cover the expenditure referred to in Articles 2 and 3 shall be made available to the Member States by the Commission by means of advances on the provision for expenditure effected in a reference period.

Advance payments for programme implementation in the framework of rural development measures referred to in Article 3(1) may be granted by the Commission on the approval of the programmes concerned and shall be deemed to be expenditure effected on the first day of the month following the granting decision.

2. Until the advances on the provision for expenditure effected are paid, the resources necessary to meet that expenditure shall be mobilised by the Member States in accordance with the needs of their accredited paying agencies.

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. Member States shall, at regular intervals, transmit to the Commission the following information concerning the accredited paying agencies and coordinating bodies and relating to the transactions financed by the Guarantee Section of the Fund:

- (a) statements of expenditure and estimates of financial needs;
- (b) annual accounts, accompanied by the information required for clearance and an attestation regarding the integrality, accuracy and veracity of the accounts transmitted;

2. Detailed rules for the application of this Article and, in particular, those covering the attestation of the accounts referred to in paragraph 1(b) shall be adopted in accordance with the procedure laid down in Article 13.

Article 7

1. The Commission, after consulting the Fund Committee shall adopt the decisions set out in paragraphs 2, 3 and 4.

2. The Commission shall decide on monthly advances on the provision for expenditure effected by the accredited paying agencies.

Expenditure for October shall be attributed to October if it is effected from 1 to 15 October and to November if it is effected from 16 to 31 October. Advances shall be paid to the Member State not later than the third working day of the second month following that in which the expenditure is effected.

Additional advances may be made, the Fund Committee being informed at the next consultation.

3. The Commission shall, before 30 April of the year following the financial year concerned, on the basis of the information referred to in Article 6(1)(b), clear the accounts of the paying agencies.

The clearance of accounts decision shall cover the integrality, accuracy and veracity of the accounts submitted. The decision shall not prejudice the adoption of a subsequent decision pursuant to paragraph 4.

4. The Commission shall decide on the expenditure to be excluded from the Community financing referred to in Articles 2 and 3 where it finds that expenditure has not been effected in compliance with Community rules.

Before a decision to refuse financing is taken, the results of the Commission's checks and the replies of the Member State concerned shall be notified in writing, after which the two parties shall endeavour to reach agreement on the action to be taken.

If no agreement is reached, the Member State may ask for a procedure to be initiated with a view to mediating between the respective positions within a period of four months, the results of which shall be set out in a report sent to and examined by the Commission, before a decision to refuse financing is taken.

The Commission shall evaluate the amounts to be excluded having regard in particular to the degree of

non-compliance found. The Commission shall take into account the nature and gravity of the infringement and the financial loss suffered by the Community.

A refusal to finance may not involve:

- (a) expenditure referred to in Article 2 effected prior to 24 months preceding the Commission's written communication of the results of those checks to the Member State concerned;
- (b) expenditure for a measure or action referred to in Article 3 in respect of which the final payment was effected prior to 24 months preceding the Commission's written communication of the results of those checks to the Member State concerned.

However, the fifth subparagraph shall not apply to the financial consequences:

- (a) of irregularities as referred to in Article 8(2);
- (b) concerning national aids, or infringements, for which the procedures referred to in Articles 88 and 226 of the Treaty have been initiated.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13. Those rules shall cover in particular the treatment of advance payments referred to in Article 5(1), second subparagraph under paragraphs 2, 3 and 4 of this Article and the procedures relating to the decisions referred to in the said paragraphs 2, 3 and 4.

Article 8

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

- (a) satisfy themselves that transactions financed by the Fund are actually carried out and executed correctly;
- (b) prevent and deal with irregularities;
- (c) 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 accredited paying agencies and deducted by them from the expenditure financed by the Fund. The interest on sums recovered or paid late shall be paid into 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 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 in so far as those acts have financial consequences for the Fund.

2. Without prejudice to the supervision effected by the Member States in accordance with national provisions laid down by law, regulation or administrative action and without prejudice to Article 248 of the Treaty, or to any inspection organised on the basis of Article 279(c) of the Treaty, authorised representatives appointed by the Commission to carry out inspections on the spot shall have access to the books and all other documents, including information created or stored in electronic form, 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 transaction 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 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 the 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 European Parliament and to the Council 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

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.

Article 13

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Fund 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 to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt measures which shall be immediately applicable.

(b) However, if such measures are not in accordance with the opinion delivered by the Fund Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

— 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 the time limit referred to in the preceding indent.

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 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. Regulation (EEC) No 729/70 shall be repealed.

2. References to the repealed Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table set out in the Annex.

Article 17

Article 15, third subparagraph and Article 40 of Decision 90/424/EEC shall be deleted.

Article 18

The measures required to facilitate the transition from the arrangements provided in Regulation (EEC) No 729/70 to those established by this Regulation shall be adopted in accordance with the procedure laid down in Article 13.

Article 19

The Commission may delete the first sentence of Article 7(2), second subparagraph in accordance with the procedure laid down in Article 13 where the budgetary funds attributed to the Guarantee Section of

the Fund, which are available toward the end of a given financial year, would allow the Fund to finance the additional expenditure resulting from that deletion for that financial year. Where the Commission makes use of this power, it may in accordance with the same procedure postpone the starting date of those payment windows of measures, which start to run between 16 and 31 October inclusive, to 1 November.

Article 20

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

It shall apply to expenditure effected as from 1 January 2000.

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

Done at Brussels, 17 May 1999.

For the Council

The President

K.-H. FUNKE

ANNEX

CORRELATION TABLE

Regulation (EEC) No 729/70	This Regulation
Article 1(1)	Article 1(1)
Article 1(2)(a) and (b)	Article 1(2)(a) and (b)
Article 1(4)	Article 1(4)
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(3)
Article 3(1)	Article 2(3)
Article 3(2)	Article 2(3)
Article 3(3)	—
Article 4(1)(a), first subparagraph	Article 4(1)(a)
Article 4(1)(a), second subparagraph	Article 4(2)
Article 4(1)(a), third subparagraph	Article 4(3)
Article 4(1)(b), first subparagraph	Article 4(1)(b)
Article 4(1)(b), second subparagraph	Article 4(4)
Article 4(2)	Article 4(5)
Article 4(3)	Article 4(6)
Article 4(4)	Article 4(7)
Article 4(5), first sentence	Article 5(1), first subparagraph
Article 4(5), second sentence	Article 5(2)
Article 4(6)	Article 4(8) and Article 5(3)
Article 5(1)	Article 6(1)
Article 5(2)(a)	Article 7(2)
Article 5(2)(b)	Article 7(3)
Article 5(2)(c)	Article 7(4)
Article 5a	—
Article 6	—
Article 6a	—
Article 6b	—
Article 6c	—
Article 7	—
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11

Regulation (EEC) No 729/70	This Regulation
Article 12(1)	Article 12
Article 12(2)	—
Article 13	Article 13
Article 14	Article 14
Article 15	Article 15
Article 16	—
