



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.06.2002
COM(2002) 293 final

2002/0125(CNS)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 1258/1999 on the financing
of the common agricultural policy**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Under Article 7(4) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy¹, a decision to refuse financing may not involve expenditure referred to in Article 2 of that Regulation effected prior to 24 months preceding the Commission's written communication of the results of those checks to the Member State. As regards expenditure for a measure or action referred to in Article 3 of that Regulation, a refusal to finance may not involve expenditure 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.

That Regulation is a recasting of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy², into which the principle of a limit of 24 months was introduced by Council Regulation (EC) No 1287/95 of 22 May 1995³.

The principle that financial corrections decided within the framework of the clearance of accounts may not precede a certain period before the communication of the results of the checks (except for the financial consequences of irregularities as referred to in Article 8(2) of Regulation (EC) No 1258/1999 and national aids or infringements for which the procedures laid down in Articles 88 and 226 of the Treaty have been initiated) stems from the report issued on 25 January 1993 by the Commission's working group on the reform of the clearance of EAGGF-Guarantee Section accounts (BELLE Report).

The Belle Report called on the Commission to restrict the financial corrections resulting from its checks to a limited number of financial years. It proposed limiting the possibility of backdating corrections to a maximum of the two financial years prior to the date of communication. It pointed out that, in terms of legal and financial security, this represented considerable progress on the existing situation where, by juggling disjunctions and reserves, at the end of several years a Commission inquiry might end up accumulating corrections for a number of financial years.

In its proposal for a Council Regulation⁴ amending Regulation (EEC) No 729/70, which introduced the clearance of accounts reform, the Commission proposed that corrections should not involve expenditure effected prior to the two financial years preceding the communication, representing a maximum period of 36 months. However, the Council decided not to follow the precise recommendation of the Belle Report on this point, but to limit the period which corrections could involve to the 24 months preceding the communication rather than the two financial years.

In its report on the budget discharge for 1999, the European Parliament subsequently called for "*the Commission to extend the clearance period for which financial recoveries can be made from the current 24 months to 36 months*".

In the light of experience, although the principle of limiting the period in which corrections can be backdated remains a useful element of the 1995 reform, the application of this restriction poses a problem in terms of protecting the EU's financial interests, as it places the

¹ OJ L 160, 26.6.1999, p. 103.

² OJ L 94, 28.4.1970, p. 13.

³ OJ L 125, 8.6.1995, p. 1.

⁴ OJ C 284, 12.10.1994, p. 5.

Commission in the unsatisfactory position of being unable to recover money that has been spent improperly, thus representing a financial loss to the Community budget.

It is therefore a legitimate objective to seek to ensure that this restriction is applied in a manner which takes better account of the financial interests of the European Union. This may be achieved in two ways. The first is increasing use of preventive missions so that, when a new scheme is introduced or substantial changes are made to an existing scheme, any deficiencies may be identified before the first expenditure is effected. The Commission is already endeavouring to do this, but this measure is highly dependent on the human resources available to the clearance of accounts department. The second, which is the subject of this proposal for a Regulation, is to extend the reference period, which would reduce the amounts of non-conform expenditure charged to the Community budget.

It is therefore proposed to extend to 36 months the maximum period between the start of application of financial corrections and the date of communication of the result of the checks referred to in the second subparagraph of Article 7(4) of Regulation (EC) No 1258/1999 to the Member State.

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 1258/1999 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 Commission⁵,

Having regard to the opinion of the European Parliament⁶,

Having regard to the opinion of the Court of Auditors⁷,

Having regard to the opinion of the Economic and Social Committee⁸,

Whereas:

- (1) Under Article 7(4) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy⁹ a refusal to finance may not involve expenditure referred to in Article 2 thereof effected prior to 24 months preceding the Commission's written communication of the results of the checks referred to in the second subparagraph of Article 7(4) to the Member State concerned. As regards expenditure for a measure or action referred to in Article 3 of that Regulation, a refusal to finance may not involve expenditure 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.
- (2) In the light of experience acquired in order to ensure greater protection of the Community's financial interests, this 24-month period should be increased to 36 months.
- (3) Regulation (EC) No 1258/1999 should therefore be amended accordingly,

⁵ OJ C ..., ..., p. ...

⁶ OJ C ..., ..., p. ...

⁷ OJ C ..., ..., p. ...

⁸ OJ C ..., ..., p. ...

⁹ OJ L 160, 26.6.1999, p. 103.

HAS ADOPTED THIS REGULATION:

Article 1

In points (a) and (b) of the fifth subparagraph of Article 7(4) of Regulation (EC) No 1258/1999, the words “24 months” are replaced by “36 months”.

Article 2

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 in respect of which the Commission’s written communication of the result of the checks to the Member State dates after the entry into force of this Regulation, excluding expenditure effected more than 24 months before the date of entry into force of this Regulation.

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

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT				
1. BUDGET HEADING: B1-3700			APPROPRIATIONS: - € 400 million	
2. TITLE: Council Regulation amending Regulation (EC) No 1258/1999 on the financing of the common agricultural policy.				
3. LEGAL BASIS: Article 37 of the Treaty				
4. AIMS: In order to ensure greater protection of the Community's financial interests, extend the clearance period during which financial recoveries can be performed to 36 months instead of 24 months.				
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2002 (EUR million)	FOLLOWING FINANCIAL YEAR 2003 (EUR million)	
5.0 EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	-	-	-	
5.1 REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	-	-	-	
	2004	2005	2006	2007
5.0.1 ESTIMATED EXPENDITURE	-	-	-	-
5.1.1 ESTIMATED REVENUE	-	-	-	-
5.2 METHOD OF CALCULATION: -				
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES / NO	
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES / NO	
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			YES / NO	
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES / NO	
OBSERVATIONS: The measure as such has no financial impact.				