

COMMISSION REGULATION (EC) No 188/2003**of 31 January 2003****amending Regulation (EC) No 2222/2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period ⁽¹⁾, as amended by Regulation (EC) No 2500/2001 ⁽²⁾, and in particular Article 12(2) thereof,

Whereas:

- (1) One of the objectives of Article 1(2)(b) of Regulation (EC) No 1268/1999 is to solve priority and specific problems for the sustainable adaptation of the agricultural sector and rural areas in the applicant countries. Damage caused to agriculture and rural areas by exceptional natural disasters can constitute such problems as demonstrated by the flooding which in August 2002 caused considerable damage in various applicant countries. The Community needs to be able to respond appropriately to such exceptional natural disasters using various instruments including the pre-accession instrument set up under Regulation (EC) No 1268/1999 (the pre-accession instrument).
- (2) Commission Regulation (EC) No 2222/2000 ⁽³⁾, as amended by Regulation (EC) No 2252/2001 ⁽⁴⁾, does not contain any particular provisions concerning the management of aid where the granting of such aid is related to, or affected by, an exceptional natural disaster. Such provisions should be laid down to permit appropriate and rapid action by the Community in the wake of such disasters.
- (3) The second indent of Article 5(1) of Regulation (EC) No 2222/2000 lays down that one of the tasks of the Sapard agency is project selection. Experience has shown that in certain circumstances that task need not be handled by that agency.
- (4) Article 7(3) of Regulation (EC) No 2222/2000 lays down the rules regarding automatic decommitment of unused appropriations, reflecting those in Article 31(2) of

Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽⁵⁾, as amended by Regulation (EC) No 1447/2001 ⁽⁶⁾. For those rules to be applied under Sapard in conditions equivalent to those for Member States it should be taken into account that in the absence of Commission decisions conferring management of aid to the applicant countries, the instrument may not be applied, no eligible expenditure on projects may be generated and consequently none of the appropriations for the countries concerned may be the subject of any payment order. The timing of such decisions is likely to have repercussions on use of appropriations in the initial years of application of the pre-accession instrument in each applicant country.

- (5) As implementation of Sapard Programmes has only started for most Candidate Countries in 2002, whereas appropriations were first entered in the budget in 2000, it is appropriate to extend for two years the time limit for use of appropriations for the annual allocations 2000 to 2002 and thereafter to move progressively towards the rules of automatic decommitment as provided in Regulation (EC) No 1260/1999. Moreover, where a risk of decommitment is invoked, applications for payment should also be admissible by the end of the quarter concerned.
- (6) Regulation (EC) No 2222/2000 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee of the European Agriculture and Guidance Fund (EAGGF),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2222/2000 is amended as follows:

1. In Article 2, the following point is added:
 - (j) "exceptional natural disaster" means a natural disaster on an unusually large scale and causing intense damage and destruction.'

⁽¹⁾ OJ L 161, 26.6.1999, p. 87.

⁽²⁾ OJ L 342, 27.12.2001, p. 1.

⁽³⁾ OJ L 253, 7.10.2000, p. 5.

⁽⁴⁾ OJ L 304, 21.11.2001, p. 8.

⁽⁵⁾ OJ L 161, 26.6.1999, p. 1.

⁽⁶⁾ OJ L 198, 21.7.2001, p. 1.

2. In Article 5(1), the second and third indents are replaced by the following:
- project selection, except where for the measure in question in the approved Sapard agriculture and rural development programme (hereinafter referred to as the programme), there is only one designated beneficiary or the task of project selection has been granted to a designated body or bodies;
 - checking of applications for approval of projects against terms and conditions, eligibility and against the content of the programme, including, where appropriate, public procurement provisions.
3. Article 7(3) is replaced by the following:
- ‘3. Taking account of the requirements of Article 10, the Commission shall decommit any part of a commitment which has not been settled by the payment on account or for which it has not received an acceptable payment application by the following dates:
- (a) for appropriations corresponding to the 2000 annual allocation: 31 December 2004;
 - (b) for appropriations corresponding to the annual allocation for 2001: 31 December 2005;
 - (c) for appropriations corresponding to the annual allocations for 2002 and 2003: 31 December 2006;
 - (d) for appropriations corresponding to the annual allocations for any year after 2003: 31 December of the second year following the year of the financial commitment concerned.’
4. In Article 9(1), the second indent is replaced by the following:
- be based on declarations of expenditure incurred by the beneficiary. Such declarations shall include only projects selected and expenditure paid from the date of the Commission decision referred to in Article 3(1), except for feasibility and related studies concerning the selected projects and for technical assistance. However, where the Commission determines that an exceptional natural disaster has occurred, payments to beneficiaries for projects related to that disaster may benefit from a derogation replacing the requirement concerning declarations of expenditure by the possibility of payment of advances.’
5. Article 10(1) is replaced by the following:
- ‘1. The Commission shall take into consideration only payment applications drawn up by the Sapard agency on a quarterly basis, presented in accordance with a form established by the Commission and transmitted by the national authorizing officer to the Commission within one month of the end of each quarter. However, supplementary applications may be submitted if justified on the basis of the risk of:
- the net balance in the Sapard euro account being exhausted before the next quarterly application has been processed, or
 - decommitment being invoked as set out in Article 7(3).’

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 31 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission