

COMMISSION REGULATION (EC) No 1233/2007**of 22 October 2007****amending Regulation (EC) No 885/2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 42 thereof,

Whereas:

(1) According to Articles 3 and 4 of Regulation (EC) No 1290/2005, the European Agricultural Guarantee Fund (the EAGF) and the European Agricultural Fund for Rural Development (the EAFRD) finance only, in a context of shared management, expenditure effected in accordance with Community legislation. Undue payments made by Member States to beneficiaries which do not result from irregularities within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽²⁾ but from errors made by the national administrations, are not effected in accordance with Community legislation and, therefore, should be excluded from financing from the Community budget. It is for this reason that, if these undue payments have not been recovered by the Member States by the end of the financial year in which they are detected, they should be excluded from the annual accounts of the paying agencies. As a consequence, such payments should not be included in the table provided for in Annex III to Commission Regulation (EC) No 885/2006 ⁽³⁾.

(2) Pursuant to Article 32(3) of Regulation (EC) No 1290/2005, Member States are required to provide the Commission with a summary report on recovery procedures when sending the annual accounts. In the report Member States must indicate separately the amounts not recovered within the time-limits specified as well as the amounts for which it has been decided not to pursue the recovery. In order to facilitate the clearance of the accounts of the paying agencies by the Commission, the accounts should include the total amount to be charged to the Community budget and the total amount to be charged to the budget of the Member State in accordance with, respectively, the first subparagraph of Article 32(5) of Regulation (EC) No 1290/2005 for the EAGF and the first subparagraph of Article 33(8) for the EAFRD as well as the total amount

to be charged to the Community budget in accordance with, respectively, Article 32(6) for the EAGF and Article 33(7) for the EAFRD of Regulation (EC) No 1290/2005.

- (3) For accounting purposes, Member States should be required to send to the Commission in the context of the annual accounts information on sums to be recovered other than those which result from errors made by the national administrations or irregularities committed by the beneficiaries such as, for example, sums to be recovered as a result of the application of reductions and exclusions for violations of cross-compliance obligations. To this effect, a model table indicating the required information should be added.
- (4) Certain references in relation to information systems security should be updated following recent changes in this respect.
- (5) Taking into account the experience gained in applying Annex III, that Annex should be simplified.
- (6) Regulation (EC) No 885/2006 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 885/2006 is amended as follows:

1. Article 6 is replaced by the following:

'Article 6

Content of the annual accounts

The annual accounts referred to in Article 8(1)(c)(iii) of Regulation (EC) No 1290/2005 shall include:

- (a) the assigned revenues referred to in Article 34 of Regulation (EC) No 1290/2005;
- (b) the expenditure of the EAGF after deduction of any undue payments not recovered at the end of the financial year other than those referred to under point (h), including any interests thereon, summarised by item and sub-item of the Community budget;

⁽¹⁾ OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 378/2007 (OJ L 95, 5.4.2007, p. 1).

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

⁽³⁾ OJ L 171, 23.6.2006, p. 90.

- (c) the expenditure of the EAFRD, by programme and measure. At the closure of the programme, any undue payments not recovered other than those referred to under point (h), including any interests thereon, shall be deducted from the expenditure of the financial year in question;
- (d) information regarding expenditure and assigned revenues or confirmation that the detail of each transaction is held on computer file at the disposal of the Commission;
- (e) a table of differences by item and sub-item or, in the case of the EAFRD, by programme and measure, between the expenditure and the assigned revenues declared in the annual accounts and that declared for the same period in the documents referred to in Article 4(1)(c) of Commission Regulation (EC) No 883/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD (*), as far as the EAGF is concerned and Article 16(2) of that Regulation as far as the EAFRD is concerned, accompanied by an explanation for every difference;
- (f) separately, the amounts to be borne by, respectively, the Member State concerned and the Community in accordance with the first subparagraph of Article 32(5) and Article 32(6) of Regulation (EC) No 1290/2005;
- (g) separately, the amounts to be borne by, respectively, the Member State concerned and the Community in accordance with the first subparagraph of Article 33(8) and Article 33(7) of Regulation (EC) No 1290/2005;
- (h) the table of the undue payments to be recovered at the end of the financial year as a consequence of irregularities within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 (**), including any sanctions and interests thereon, following the model set out in Annex III to this Regulation;

- (i) an extract from the debtors ledger of the amounts to be recovered and credited to either the EAGF or the EAFRD other than those referred to in points (b), (c) and (h), including any sanctions and interests thereon, following the model set out in Annex IIIa;
- (j) a summary of intervention operations and a statement of the quantity and location of stocks at the end of the financial year;
- (k) confirmation that the details of each movement of intervention storage is held on the paying agency's files;

(*) OJ L 171, 23.6.1996, p. 1.

(**) OJ L 312, 23.12.1995, p. 1.

2. Annex I is amended in accordance with Annex I to this Regulation;
3. Annex III is replaced by the text in Annex II to this Regulation;
4. after Annex III, the text in Annex III to this Regulation is inserted as Annex IIIa.

Article 2

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

Points (1), (3) and (4) of Article 1 shall apply from 16 October 2007 in respect of financial year 2008 and following.

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

Done at Brussels, 22 October 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Point 3(B) of Annex I to Regulation (EC) No 885/2006 is amended as follows:

(a) the introductory phrase is replaced by the following:

'Information systems security shall be based on the criteria laid down in a version applicable in the financial year concerned of one of the following internationally accepted standards:';

(b) point (i) is replaced by the following:

'(i) International Standards Organisation 27002: Code of practice for Information Security management (ISO)'.

ANNEX II

‘ANNEX III

Model table referred to in Article 6(h)

Member States shall provide per paying agency the information referred to in Article 6(h) by using the following table:

a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u
	Fund (reference to Regulation (EC) No 1290/2005, Article 3 or 4)	Financial year n	Currency unit	Case identi- fication number	ECR identi- fication if appli- cable ⁽¹⁾	Case included in the debtors' ledger?	Ben- eficiary identi- fication	Pro- gramme closed? (only for EAFRD)	Financial year of primary finding of irregu- larity	Subject to judicial pro- cedures	Original amount to be re- covered	Total corrected amount (entire recovery period)	Total re- covered amount (entire recovery period)	Amount declared irrecov- erable	Financial year of estab- lishment of irre- cover- ability	Reasons for irre- cover- ability	Cor- rected amount (in financial year n)	Re- covered amount (in financial year n)	Amount for which recovery is ongoing	Amount to be credited to the Com- munity budget
Paying Agency																				
	3/4					y/n				y/n										
	3/4					y/n				y/n										
	3/4					y/n				y/n										
	3/4					y/n				y/n										
Total																				

⁽¹⁾ This concerns the unique identification of the cases notified under Commission Regulation (EC) No 1848/2006 (OJ L 355, 15.12.2006, p. 56).

ANNEX III
‘ANNEX IIIA

Model table referred to in Article 6(i)

Other outstanding amounts in the debtors' ledger to be credited to the EAGF and the EAFRD

Member States shall provide per paying agency the information referred to in Article 6(i) by using the following table:

a	b	c	d	e	f	g	h
Paying Agency	Fund	Currency unit	Balance 15 October N-1	New cases (year N)	Total recoveries (year N)	Total corrections including irrecoverable amounts (year N)	Amount to be recovered 15 October N'