

COMMISSION DECISION

of 31 July 2002

conferring management of aid on implementing agencies for pre-accession measures in agriculture and rural development Romania in the pre-accession period

(2002/638/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89⁽¹⁾, and in particular Article 12(2) thereof,

Whereas:

- (1) In accordance with Article 4(5) of 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⁽²⁾, as last amended by Regulation (EC) No 2500/2001⁽³⁾, a Programme for Agriculture and Rural Development was approved by Commission Decision C(2000) 3742 final on 12 December 2000, and amended by Commission Decision H/2002/1936, on 11 July 2002 for Romania.
- (2) The Romanian government and the Commission, acting on behalf of the European Community, signed on 2 February 2001 the Multiannual Financing Agreement (hereinafter MAFA) laying down the technical, legal and administrative framework for the execution of the Sapard Programme.
- (3) Regulation (EC) No 1266/1999 provides that the *ex ante* approval requirement referred to in Article 12(1) of Regulation (EC) No 1266/1999 may be waived on the basis of a case-by-case analysis of the national and sectorial programme/project management capacity, financial control procedures and structures regarding public finance; Commission Regulation (EC) No 2222/2000⁽⁴⁾, as amended by Regulation (EC) No 2252/2001⁽⁵⁾, provides for detailed rules for the carrying out of the said analysis.
- (4) The competent authority of Romania has appointed the Sapard Agency, public institution with legal status, in the subordination of the Ministry of Agriculture, Food and Forestry. It will be responsible for implementing the following measures: 'Processing and Marketing of agricultural and fishery products', 'Development and

improvement of rural infrastructure' and 'Technical assistance' as defined in the Programme for Agriculture and Rural Development that was approved by Commission Decision C(2000) 3742 final on 12 December 2000, and amended by Commission Decision H/2002/1936 on 11 July 2002; whereas the Ministry of Public Finance, National Fund has been established for the financial functions it is due to perform in the framework of the implementation of the Sapard programme.

- (5) Pursuant to Regulation (EC) No 1266/1999 and Regulation (EC) No 2222/2000, the Commission analysed the national and sectorial programme/project management capacity, financial control procedures and structures regarding public finance and considers that, for the implementation of the aforementioned measures, Romania complies with the provisions of Articles 4 to 6 and of the Annex to Regulation (EC) No 2222/2000 and with the minimum conditions set out in the Annex to Regulation (EC) No 1266/1999.
- (6) In particular, the Sapard Agency has implemented the following key accreditation criteria satisfactorily: written procedures, segregation of duties, pre-project approval and pre-payment checks, payment procedures, accounting procedures, computer security, internal audit, and, where appropriate, public procurement provisions.
- (7) On 11 July 2002 the Romanian authorities provided the revised list of eligible expenditure in conformity with Article 4(1), Section B of the MAFA, and this did not give rise to objections by the Commission.
- (8) The Ministry of Public Finance, National Fund has implemented the following criteria satisfactorily for the financial functions it is due to perform in the framework of the implementation of the Sapard programme for Romania: audit trail, treasury management, receipt of funds, disbursements to the Sapard Agency, computer security and internal audit.
- (9) It is therefore appropriate to waive the *ex ante* approval requirement referred to in Article 12(1) of Regulation (EC) No 1266/1999 and to confer on the Sapard Agency, and on the Ministry of Public Finance, National Fund in Romania, the management of aid on a decentralised basis.

⁽¹⁾ OJ L 161, 26.6.1999, p. 68.

⁽²⁾ OJ L 161, 26.6.1999, p. 87.

⁽³⁾ OJ L 342, 27.12.2001, p. 1.

⁽⁴⁾ OJ L 253, 7.10.2000, p. 5.

⁽⁵⁾ OJ L 304, 21.11.2001, p. 8.

- (10) However, since the verifications carried out by the Commission are based on an operational, but not operating system, it is therefore appropriate to confer the management of the Sapard Programme on the Sapard Agency, and on the Ministry of Public Finance, National Fund, according to Article 3(2) of Regulation (EC) No 2222/2000, on a provisional basis.
- (11) Full conferral of management of the Sapard Programme is only envisaged after further verifications, in order to ensure that the system operates satisfactorily, have been carried out and after any recommendations the Commission may issue, with regard to the conferral of management of aid on the Sapard Agency, and on the Ministry of Public Finance, National Fund, have been implemented.
- (12) In order to take account of the requirements of Article 8(1)(b), Section A of the MAFA, expenditure pursuant to this Decision shall be eligible for Community co-finance only if incurred by beneficiaries from the date of this Decision or, if later, the date of the instrument making them a beneficiary for the project in question, except for feasibility and related studies, and for technical assistance, where this date shall be 12 December 2000, provided in all cases it is not paid by the Sapard Agency prior to the date of this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

The requirement of *ex ante* approval by the Commission of project selection and contracting by Romania is hereby waived.

Article 2

Management of the Sapard Programme is conferred on a provisional basis to:

1. the Sapard Agency under the Ministry of Agriculture, Food and Forestry of Romania, Negustori Street 1 B, Sector 2, RO Bucharest 2, for the implementation of measures 'Processing and marketing of agricultural and fishery products', 'Development and improvement of rural infrastructure' and 'Technical assistance' as defined in the Programme for Agriculture and Rural Development that was approved by Commission Decision C(2000) 3742 final on 12 December 2000, and amended by Commission Decision H/2002/1936, adopted on 11 July 2002; and
2. the Ministry of Public Finance, National Fund, Apolodor Street 17, Sector 5, RO 70663 Bucharest, for the financial functions it is due to perform in the framework of the implementation of the Sapard programme for Romania.

Article 3

Expenditure pursuant to this Decision shall be eligible for Community co-finance only if incurred by beneficiaries from the date of this Decision or, if later, the date of the instrument making them a beneficiary for the project in question, except for feasibility and related studies, and for technical assistance, where this date shall be 12 December 2000, provided in all cases it is not paid by the Sapard Agency prior to the date of this Decision.

Done at Brussels, 31 July 2002.

For the Commission

Franz FISCHLER

Member of the Commission