

COUNCIL REGULATION (EEC) No 307/91

of 4 February 1991

**on reinforcing the monitoring of certain expenditure chargeable to the
Guarantee Section of the European Agricultural Guidance and Guarantee Fund**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas, pursuant to Article 8 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽²⁾, as last amended by Regulation (EEC) No 2048/88⁽³⁾, Member States are to take the measures necessary to satisfy themselves that the transactions financed by the European Agricultural Guidance and Guarantee Fund (EAGGF) are actually carried out and are executed correctly, to prevent and deal with irregularities and to recover sums lost as a result of irregularities or negligence;

Whereas the monitoring and detection of fraud and irregularities in connection with exports of agricultural products, products exported as goods not falling within Annex II to the Treaty and measures applicable to certain sectors or certain products must be reinforced;

Whereas the Member States must be encouraged to take measures to step up controls in these areas;

Whereas the resulting financial effort may, for some Member States, entail considerable additional budget expenditure, not least with regard to the requirements in respect of the nature and frequency of checks on goods laid down by Regulation (EEC) No 386/90⁽⁴⁾, and provision should be made for a Community financial contribution over a certain period;

Whereas account must be taken of the diversity of the administrative structures existing in the Member States; whereas the latter should therefore be authorized to take reinforcement measures in accordance with differing procedures,

Article 1

1. Where a Member State, in accordance with paragraph 2, reinforces the monitoring and detection of fraud and irregularities in connection with exports of agricultural products and products exported as goods not falling within Annex II to the Treaty, the Community shall, during a period of five years beginning on the first day of the month following entry into force of this Regulation, bear part :

- of the remuneration of the agents referred to in paragraph 2 occupying supplementary posts created after the entry into force of this Regulation, which is to be fixed on a flat-rate basis throughout the Community,
- of the cost of training and briefing agents employed on the duties referred to in paragraph 2.
- of the cost of equipping agents employed on the duties referred to in paragraph 2,
- of the costs arising from the monitoring work entrusted to the approved surveillance firms and laboratories referred to in paragraph 2,

up to a total amount of ECU 10 million per year.

The Community financial contribution shall be 50 % for the first three years and 25 % for fourth and fifth years.

This amount shall, each year, be allocated by the Commission among the Member States which apply therefor, in proportion to their average expenditure on export refunds for agricultural products and for agricultural products exported as goods not falling within Annex II to the Treaty, as taken into account for the last two financial years, within the meaning of Article 101 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽⁵⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90⁽⁶⁾. However, during the first three years, the amount applied by way of expenditure on refunds shall be at least equivalent, in the case of Spain, to two-thirds of the amount taken into account for Italy and, in the case of Portugal, to two-thirds of the amount taken into account for Greece.

⁽¹⁾ OJ No C 324, 24. 12. 1990.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽³⁾ OJ No L 185, 15. 7. 1988, p. 1.

⁽⁴⁾ OJ No L 42, 16. 2. 1990, p. 6.

⁽⁵⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁶⁾ OJ No L 70, 16. 3. 1990, p. 1.

2. The reinforcement measures referred to in paragraph 1 may consist in :

- entrusting agents with the specific task of :
 - checking the quantity and quality of the products intended for export, with a view to the granting of refunds,
 - detecting and dealing with fraud and irregularities in connection with the products referred to in paragraph 1,
- entrusting approved firms specializing in surveillance work, or approved laboratories, with the task of :
 - checking the quantity and quality of the products intended for export, with a view to the granting of refunds,
 - verifying whether the products in question have been imported into the third country of destination.

3. The approved surveillance firms and laboratories referred to in paragraph 2 must provide all guarantees as to their independence. In particular, they may not, in supervised transactions or in similar export transactions, act in the capacity of exporter, customs agent, carrier, agent in the Community or in a third country, consignee, storer or in any other capacity that could give rise to a conflict of interests.

Article 2

1. Where a Member State has one or more services, branches thereof, or agencies or sets up the same, entrusted in particular with the monitoring of one or more of the measures referred to in paragraph 2 and with the detection and prosecution of fraud and irregularities connected with those measures, the Community shall, during a period of five years, beginning on the first day of the month following the entry into force of this Regulation, bear part :

- of the remuneration of the agents employed by that service or agency and occupying supplementary posts created after the entry into force of this Regulation, which is to be fixed on a flat-rate basis throughout the Community,
- of the cost of training and briefing the agents employed by this service or agency,
- of the cost of equipping the agents employed by this service or agency

up to a total amount of ECU 10 million per year.

The Community financial contribution shall be 50 % for the first three years and 25 % for the fourth and fifth years.

This amount shall, each year, be allocated by the Commission among the Member States which apply therefor, in proportion to their average expenditure on the measures referred to in paragraph 2, as taken into account for the last two financial years, within the meaning of Article 101 of the Financial Regulation of 21 December 1977. However, during the first three years, the amount

applied by way of expenditure for these measures shall be at least equivalent, in the case of Spain, to two-thirds of the amount taken into account for Italy and, in the case of Portugal, to two-thirds of the amount taken into account for Greece.

2. The monitoring referred to in paragraph 1 may relate to :

- (a) aid per hectare ;
- (b) aid for the set-aside of arable land ;
- (c) premiums provided for in the beef and veal and sheepmeat and goatmeat sectors ;
- (d) aid for oil seeds ;
- (e) measures provided for in the wine sector ;
- (f) measures provided for in the fruit and vegetables sector ;
- (g) measures provided for in the tobacco sector ;
- (h) measures provided for dried grapes ;
- (i) aid for cotton.

3. The agencies referred to in paragraph 1 shall have full administrative and financial latitude. They shall recruit their staff, organize their activities, carry out their tasks and effect the relevant expenditure in full independence of the existing administrative structures without prejudice to the general surveillance carried out by the Member State.

Their status shall ensure their independence *vis-à-vis* the recipients, including indirect recipients, of the measure monitored or their representative and *vis-à-vis* those working in the trade concerned.

They shall be vested by the Member State with all powers necessary to carry out the tasks entrusted to them in accordance with paragraph 1.

Article 3

The Community financial contribution under this Regulation may not be combined with that provided for, in respect of the products referred to in Articles 1 and 2, by other regulations, and in particular :

- Council Regulation (EEC) No 283/72 of 7 February 1972 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field ⁽¹⁾,
- Council Regulation (EEC) No 765/85 of 12 March 1985 on increasing the staff of the departments responsible for quality control of agricultural products in Greece ⁽²⁾,
- Council Regulation (EEC) No 2048/89 of 19 June 1989 laying down general rules on controls in the wine sectors ⁽³⁾,

⁽¹⁾ OJ No L 36, 10. 2. 1972, p. 1.

⁽²⁾ OJ No L 86, 27. 3. 1985, p. 5.

⁽³⁾ OJ No L 202, 14. 7. 1989, p. 32.

— Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC (*).

Article 4

For the purposes of this Regulation, 'remuneration' means the salaries, less the taxes and fiscal charges, of the agents concerned, and the travel costs that are necessary for the carrying out of their duties. The amount of the remuneration shall be determined on a flat-rate and uniform basis throughout the Community by reference to the salaries applied by Member States for similar functions.

Article 5

The equipment costs shall include in particular the purchase or hire of data-processing, office and transport equipment, with the exclusion, however, of basic office equipment.

Article 6

The annual amount representing the expenditure borne by the Community shall be fixed by the Commission on the basis of information supplied by the Member States. At the request of the Member States, the Commission may make advance payments to be deducted from the definitive amount of its contribution.

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

Done at Brussels, 4 February 1991.

Article 7

Detailed rules for the application of this Regulation, and in particular the flat-rate amounts referred to in Articles 1 (1) and 2 (1), the rules on approved firms and laboratories as referred to in Article 1 (2) and those applicable to the agencies referred to in Article 2, shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 8

The amounts expressed in ecus shall be converted into national currencies by applying the exchange rates in force on the first working day of the calendar year in which each 12-month period of application of this Regulation begins, as published in the 'C' series of the *Official Journal of the European Communities*.

Article 9

Each year before 30 September, the Commission shall assess, on the basis of a report forwarded by the Member States concerned before 30 June of the year following the year of the expenditure, the results obtained by the measures co-financed by the Community.

Full details of this assessment shall be given in the annual financial report referred to in Article 10 of Regulation (EEC) No 729/70.

Article 10

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

For the Council

The President

R. STEICHEN

(*) OJ No L 388, 30. 12. 1989, p. 18.