

COMMISSION REGULATION (EC) No 3582/93

of 21 December 1993

on detailed rules for the application of Council Regulation (EEC) No 2073/92 on promoting consumption in the Community and expanding the markets for milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2073/92 of 30 June 1992 on promoting consumption in the Community and expanding the markets for milk and milk products ⁽¹⁾, and in particular Article 4 thereof,

Whereas detailed rules for the application of Regulation (EEC) No 2073/92 must deal, in particular with Community financing, the programme provided for in Article 2 of that Regulation, the admissibility of applications, and the procedure for the acceptance of the measures proposed;

Whereas the provisions of this Regulation must not affect the provisions of Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽²⁾, or of Council Regulation (EEC) No 2082/92 on certificates of specific character for agricultural products and foodstuffs ⁽³⁾;

Whereas appropriate control measures and penalties should be provided for in order to ensure compliance with the obligations under this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community shall finance the measures provided for in Article 1 of Regulation (EEC) No 2073/92, hereinafter referred to as 'the measures'.

2. The measures shall be implemented over a maximum period of 12 months from the date on which the contract referred to in Article 4 (4) (a) takes effect.

3. The contractor's overhead costs, including administrative costs, shall be borne only up to a maximum of 2 % of total eligible expenditure, with a ceiling of ECU

10 000, provided that they are contained in the proposal referred to in Articles 3 and 4. A contractor may not claim the maximum amount of ECU 10 000 more than once, even if he concludes several contracts. If the total overhead costs exceed ECU 2 000, they must be fully accounted for.

Costs linked to studies required for the preparation of the measures shall not be eligible for Community financing.

4. The time limit laid down in paragraph 2 shall not preclude the possibility of an extension thereof being agreed subsequently, if the contractor makes a request to that effect to the competent authority at least three months before the final date and furnishes proof that as a result of exceptional circumstances beyond his control, he is unable to meet the deadline initially laid down. Such extension shall not exceed three months and shall be submitted to the Commission for prior approval.

Article 2

The programme provided for in the first subparagraph of Article 2 of Regulation (EEC) No 2073/92 shall specify in particular:

- (a) a choice of one or more measures from those referred to in Article 1 (2) of Regulation (EEC) No 2073/92;
- (b) an indication of one or more subjects to be covered by the measures selected;
- (c) a breakdown of the amount available for financing each of the selected measures;
- (d) a timetable for implementing Articles 3, 4 and 5.

The programme shall be published in the 'C' series of the *Official Journal of the European Communities*.

Article 3

1. The measures shall be proposed by natural or legal persons:

- having the qualifications necessary to implement the proposed measures,
- able to guarantee proper execution of the work.

2. The measures must:

- be part of the programme referred to in Article 2,

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 67.

⁽²⁾ OJ No L 208, 24. 7. 1992, p. 1.

⁽³⁾ OJ No L 208, 24. 7. 1992, p. 9.

- use the most appropriate advertising media for ensuring maximum effectiveness of the action take,
- take account of the particular conditions for the marketing and consumption of milk and milk products in the various regions of the Community,
- be generic and not orientated towards particular trade marks or firms,
- promote Community milk products without referring to their country or region of origin. However, the latter requirement shall not prevent indication of the traditional name of the product which includes a particular place, region or country in the Community, without prejudice to the Regulations on designations of origin and certificate of specific character,
- mention the Community's financing of the measures concerned.

Article 4

1. Applicants must be ordinary resident or have their registered place of business in a Member State.

2. Applications for Community financing shall be lodged with the competent body in the Member State in which the applicant is ordinarily resident or has his registered place of business.

Where the proposed measures are implemented, in whole or in part, on the territory of one or more Member States other than that in which the applicant is ordinarily resident or has his registered place of business, the applicant shall forward a copy of the application to the competent bodies in those other Member States.

The competent bodies are listed in the Annex hereto.

3. Applications shall include :

- (a) the name and address of the applicant ;
- (b) all information relating to the measures proposed, with a detailed description and reasons, and an indication of the time required for implementation and the anticipated results ;
- (c) a summary of the proposal indicating its main elements ;
- (d) the price exclusive of taxes offered for each measure, expressed in ecus, with a breakdown of this amount by item together with the corresponding financing plan ;
- (e) the studies on which the proposed measure is based if such studies are available ;
- (f) the latest management report available and, where appropriate, the applicant's memorandum and articles of association and/or rules of procedure.

4. Applications shall be valid only where they are accompanied by a written undertaking :

- (a) to comply with the provisions of the standard contract and the management criteria laid down by the Commission and made available to the applicant by the competent body ;
- (b) to commission an assessment study, at the applicant's expense, of the measures carried out, if this is requested by the Commission or by the competent body to which the application for financing has been submitted ;
- (c) not to accept other Community aid for the purposes of the measures financed by the Community under this Regulation.

Article 5

1. The competent body shall draw up a list of all the applications for financing which it has received within the time limit fixed in the programme referred to in Article 2 and shall send it to the Commission with a reasoned opinion on each of them within the period fixed in the aforementioned programme.

2. Following scrutiny by the Management Committee for Milk and Milk Products, in accordance with Article 31 of Council Regulation (EEC) No 804/68 ⁽¹⁾, the Commission shall determine the successful applications at the earliest opportunity.

3. Preference may be given to applications which :

- (a) cover measures implemented in more than one Member State ; and/or
- (b) are accompanied by an analysis making it possible to estimate the cost-effectiveness of each measure proposed.

Article 6

1. Applicants shall be informed individually of the outcome of their applications by the competent body as soon as the decision referred to in Article 5 (2) is notified to the Member State.

2. The competent bodies shall conclude contracts for the selected measures with the successful applicants within one month of notification of the decision to the Member State.

To that end the bodies shall use the standard contract referred to in Article 4 (4) (a).

3. The contract shall not take effect until a security is lodged in favour of the competent body equal to 15 % of the amount of the Community financing, in order to ensure proper execution.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

If proof of the lodging of the security has not been received by the competent body within two weeks of the date of conclusion of the contract, the latter shall be void and shall not have any legal effect.

4. Securities shall be lodged in accordance with Commission Regulation (EEC) No 2220/85⁽¹⁾.

The primary requirement within the meaning of Article 20 of that Regulation shall be the implementation within the time limits laid down of the measures selected in accordance with the contract referred to in paragraph 2.

5. Failure to comply with the primary requirement of serious failure to comply with other obligations may result in the contract being terminated. In that event the party concerned shall be ineligible for Community financing under this Regulation for a period of two years from the date of termination of the contract.

Article 7

1. The parties concerned may submit a single application for an advance as from the date on which the contract takes effect.

The advance may cover a maximum of 30 % of the amount of Community financing.

Advances shall be paid subject to provision in favour of the competent body of a security equal to 110 % of the advance, lodged in accordance with Regulation (EEC) No 2220/85.

2. Payments shall be made on the basis of quarterly invoices submitted together with the relevant supporting documents and an interim report on the performance of the contract.

3. Applications for the balance shall be submitted to the competent body not later than the end of the fourth month following completion of the measures provided for in the contract. They shall be accompanied by:

- the relevant supporting documents,
- a statement summarizing the measures carried out,
- a report assessing the results achieved to date and the use which may be made thereof.

Except in cases of *force majeure*, failure to lodge applications for the balance accompanied by the documentation by the final date shall result in a reduction of 3 % of the balance per month of delay.

4. The balance shall be paid subject to verification of the documents referred to in paragraph 3.

In the event of failure to comply with the primary requirement referred to in the second subparagraph of Article 6 (4), no payment shall be made except in cases of *force majeure*.

Failure to comply with the other requirements shall result in the balance being reduced in proportion to the extent of the irregularity recorded.

5. The security referred to in paragraph 1 shall be released at the moment when the balance has been paid pursuant to paragraph 4.

However:

- (a) if, pursuant to the third subparagraph of paragraph 4, the balance is reduced and the amount of the advance and of the payments referred to in paragraph 2 exceeds the final amount of the part-financing, the proportion of the security corresponding to the amount overpaid shall be forfeit;
- (b) failure to submit an application for the balance by the final date shall result in the security being forfeit in proportion to the reduction in the balance provided for in the second subparagraph of paragraph 3.

6. The competent body shall make the payments provided for in this Article within 60 days of receipt of applications. However, it may defer the payments where further checks are required.

7. The competent body shall forward the assessment reports referred to in paragraph 3 to the Commission on the 30th day following receipt of the documents referred to in that paragraph, at the latest.

8. The applicable agricultural conversion rate shall be governed by Commission Regulation (EEC) No 1068/93⁽²⁾.

Article 8

1. The competent bodies shall take the necessary measures to verify:

- the territory of the information and supporting documents supplied,
- fulfilment of all the contractual obligations,

inter alia by means of technical, administrative and accounting checks at the premises of the contracting parties and any of their associates.

Without prejudice to Council Regulation (EEC) No 595/91⁽³⁾, they shall inform the Commission immediately in writing of any irregularities discovered.

2. With a view to the application of paragraph 1, where measures carried out by the contractor are executed in a Member State other than that in which the contracting competent body is established, the competent bodies of the Member States concerned shall assist one another.

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

⁽²⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽³⁾ OJ No L 67, 14. 3. 1991, p. 11.

3. The Commission may monitor implementation of the measures, in particular by organizing meetings of experts and by means of on-the-spot checks.

Article 9

1. In the case of undue payment, the beneficiary shall be obliged to reimburse the amounts in question plus interest calculated on the basis of the time elapsing between payment and reimbursement by the beneficiary.

The interest rate applicable shall be the rate applied by the European Monetary Cooperation Fund to its opera-

tions in ecus, as published in the 'C' series of the *Official Journal of the European Communities*, in force on the date of the undue payment, plus three percentage points.

2. Amounts recovered, together with interest, shall be paid to the disbursing agencies or departments and deducted by the latter from expenditure financed by the European Agricultural Guidance and Guarantee Fund.

Article 10

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

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

Done at Brussels, 21 December 1993.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

LIST OF COMPETENT BODIES PURSUANT TO ARTICLE 4 (2)

Member State	Competent body
Belgium	<p>Office belge de l'économie et de l'agriculture (OBEA) Rue de Trèves 82 B-1040 Bruxelles</p> <p>Belgische Dienst voor Bedrijfsleven en Landbouw (BDBL) Trierstraat 82 B-1040 Brussel</p>
Denmark	<p>EF-Direktoratet Nyrupsgade 26 DK-1602 København V</p>
Germany	<p>Bundesanstalt für landwirtschaftliche Marktordnung (BALM) Adickesallee 40 D-60322 Frankfurt-am-Main Postfach 18 01 07 D-60082 Frankfurt-am-Main</p>
Greece	<p>Direction for the management of agricultural products (DIDAGEP) 241 Acharnon Street 104-46 Athens (Greece)</p>
France	<p>Office national interprofessionnel du lait et des produits laitiers (Onilait) 2, rue Saint-Charles F-75740 Paris Cedex 15</p>
Ireland	<p>Department of Agriculture and Food Milk Policy Division Floor 1 East Agriculture House Kildare Street IRL-Dublin 2</p>
Italy	<p>Azienda di Stato per gli interventi sul mercato agricolo (AIMA) via Palestro 81 I-00198 Roma</p>
Luxembourg	<p>Administration des services techniques de l'agriculture 16, route d'Esch L-1470 Luxembourg</p>
Netherlands	<p>Produktschap voor Zuivel, Sir Winston Churchilllaan 275 NL-2288 EA Rijswijk (ZH)</p>
United Kingdom	<p>Intervention Board Executive Agency Livestock Products Division Fountain House 2 Queen's Walk GB-Reading, Berks RG1 7QW</p>

Member State	Competent body
Spain	Secretaría General de Alimentación Ministerio de Agricultura, Pesca y Alimentación Paseo Infanta Isabel 1 E-28014 Madrid
Portugal	Instituto Nacional de Intervenção e Garantia Agrícola (INGA) Rua Camilo Castelo Branco, 45, 2º P-1000 Lisboa