

COURT OF AUDITORS

OPINION No 7/93 OF THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES

on a proposal for a Council Regulation (EEC, Euratom) amending Council Regulation (EEC, Euratom) No 1552/89 implementing Decision No 88/376/EEC, Euratom concerning the system of the Communities' own resources

(93/C 307/10)

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to Council Decision No 88/376/EEC, Euratom, of 24 June 1988⁽¹⁾ concerning the system of the Communities' own resources,

Having regard to Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989⁽²⁾ implementing Decision No 88/376/EEC, Euratom, concerning the system of the Communities' own resources,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992⁽³⁾ establishing a support system for producers of certain arable crops,

Having regard to the proposal submitted by the Commission on 17 May 1993,

Having regard to the request by the Council for the Court's Opinion on this proposal, received by the Court on 18 June 1993,

Whereas, according to the Commission's calculations, refunds to the Member States of the aid laid down in Council Regulation (EEC) No 1765/92 introducing a system of support for producers of certain arable crops are, as a consequence of Article 10 of this Regulation, likely to be concentrated in the initial months of the

financial year and the amounts to be paid out are likely to be well in excess of the cash resources available during that period, in the light of the sums of own resources normally made available;

Whereas the provisions of Article 10 (2) of Council Regulation (EEC, Euratom) No 1552/89 authorize the Commission to ask the Member States to enter own resources other than VAT resources and the additional GNP resource one month earlier than usual; but whereas, according to the Commission, this option would not, on its own, be enough to meet the estimated needs;

Whereas the option provided for the Commission in Article 12 (2) of the same Regulation of making drawings over and above the level of total available funds in the own resources accounts referred to in Article 9 (1) could not be systematically made use of in cases of the type envisaged in the Commission's proposal; and whereas, moreover, this option should be subject to stricter control than is the case now,

HAS ADOPTED THE FOLLOWING OPINION:

PART ONE

General observations

1. As part of the reform of the CAP, Council Regulation (EEC) No 1765/92 introduced direct aid to producers of cereals and protein crops and compensation for the set-aside obligation. Arising from the EAGGF-Guarantee, the Commission is required to reimburse Member States for payments they have made in respect of this aid in January and February of each year. The monthly frequency of its payments is thereby seriously affected and this poses a cash-flow problem, the extent of which cannot be accurately calculated.

2. The option of calling up one or two twelfths of the VAT and additional GNP own resources in advance of the due date is, in itself, complementary to the one already existing in respect of the traditional own

⁽¹⁾ OJ No L 185, 15. 7. 1988, p. 24.

⁽²⁾ OJ No L 155, 7. 6. 1989, p. 1.

⁽³⁾ OJ No L 181, 1. 7. 1992, p. 12.

resources. The procedures governing such a call should, however, be adjusted, so as to make them more closely adapted to the strict cash-flow needs. For this reason there ought to be an explicit provision allowing the VAT and GNP twelfths to be called up separately, or allowing the Commission to call up only a part of a particular twelfth if it is not needed in its entirety.

3. The Court considers that it would be inappropriate to make use of the provisions of Article 12 (2) to meet cash needs that are structural in nature. It has already stressed, in its Opinion No 5/93 (¹), the risk inherent in such facilities, should they be used in the conditions specified in paragraph 3. It ought not normally be possible for these facilities to be combined with the new provisions proposed by the Commission.

4. Regarding the question of cash management, the Court recommends that when estimating monthly

(¹) OJ No C 170, 21. 6. 1993, pp. 34 and 36.

liabilities use should be made in future of all existing methods for evening out expenditure before calling up traditional, VAT and GNP resources in advance of the due date. This approach is consistent with sound financial management of the implementation of the budget.

5. The Court regrets that the Commission is proposing to draw conclusions from Regulation (EEC) No 1765/92 in respect of the operation of the own resources system after a time lapse of almost a year. The Commission could have included this matter in its previous proposals for an amendment to Regulation (EEC, Euratom) No 1552/89, which would have made it possible to take an overall view and would have led to greater transparency in the own resources system.

PART TWO

Examination of the Articles

In the attached table the Court sets out its amendments to the Commission's proposal, as adumbrated in Part One:

Article 1

Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision No 88/376/EEC, Euratom concerning the system of the Communities own resources shall be amended as follows:

Article 10

Add after the first subparagraph of paragraph 3 the following text:

'For the specific needs of paying EAGGF Guarantee Section expenditure, Member States may be invited by the Commission to bring forward by one or two months the entry of one-twelfth of the amounts in the budget for VAT resources and the additional resource, but excluding own resources to cover the EAGGF (European Agricultural Guidance and Guarantee Fund) monetary reserve, [the reserve for loan guarantees and the reserve for emergency aid].

The sixth subparagraph concerning the amount to be entered in January each year and the seventh subparagraph applicable if the budget has not been finally adopted before the beginning of the financial year shall apply to these advance entries.'

Amend this new subparagraph No 2 as follows:

'For the specific needs of paying EAGGF Guarantee Section expenditure and in the light of the situation of the Community Treasury, Member States may be invited by the Commission to bring forward by one or two months the entry of one twelfth or part of one twelfth of the amounts in the budget for VAT resources and/or the additional resource, but excluding own resources to cover the EAGGF (European Agricultural Guidance and Guarantee Fund) monetary reserve [the reserve for loan guarantees and the reserve for emergency aid].'

This amendment is intended to give the Commission the power to call up only such amounts as are strictly necessary to meet its cash needs, and not automatically the VAT and GNP twelfths in their entirety.

This opinion was adopted by the Court of Auditors in Luxembourg at the Court meeting of 23 September 1993.

For the Court of Auditors
André J. MIDDELHOEK
President