

Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, pursuant to Article 8 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (4), Member States must take the measures necessary to satisfy themselves that transactions financed by the European Agricultural Guidance and Guarantee Fund (EAGGF) are actually carried out and are executed correctly, and prevent and deal with irregularities; whereas Article 23 of Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments (5) provides for the same obligation with regard to the agricultural structures policy;

Whereas up to now the various aid schemes have been administered and controlled by the Member States under separate rules for each scheme, as a result of their heterogeneous structure; whereas, however, in realigning the existing market measures a part of the reform of the common agricultural policy, the Community is opting, to a large extent, in both the crop and livestock sectors, for direct aid to producers;

Whereas, in order to adapt the administration and control mechanisms to the new situation and improve their effectiveness and usefulness, it is necessary to set up a new integrated administration and control system covering the aid schemes for arable crops, beef and veal, sheepmeat and goatmeat, as well as specific measures for farming in mountain, hill and certain less-favoured areas; whereas provision should be made for the possibility of including, at a later date, other aid schemes linked to the cultivated area;

Whereas, the various components of the integrated system will potentially result in more effective administration and control in the case of Community schemes not covered by this Regulation; whereas the Member States should therefore be authorized to avail themselves of the system on condition they do not in any way act in opposition to the provisions concerned;

Whereas, given the complexity of such a system and the large number of aid applications to be processed, it is essential to use the appropriate technical resources and administration and control methods; whereas as a result, the integrated system should comprise, in each Member State, a computerized data base, an alphanumeric identification system for agricultural parcels, aid applications from farmers, a harmonized control system and, in the livestock sector, a system for the identification and recording of animals; Whereas the administration of the data collected and its use for the verification of aid applications make it necessary to set up high-performance computerized data bases allowing cross-checks in particular to be made;

Whereas the identification of agricultural parcels is a key element in the correct application of schemes linked to surface area; whereas experience has shown that the existing methods have certain deficiencies; whereas, therefore, provision should be made for an alphanumeric identification system set up initially, where necessary, with the aid of remote sensing;

Whereas in order to guarantee the possibility of effective control, 'area' aid applications must be submitted not later than during the first quarter of the year; whereas however the Member State may, in cases which it justifies, be authorized to apply a later date; whereas for 1993, having regard to the difficulties of implementing the integrated system, a later date is permitted;

Whereas, in the livestock sector, effective control requires that animals be identified and recorded; whereas, to this end, Council Directive 92/102/EEC of 27 November 1992, on the identification and registration of animals (6) lays down specific provisions in this respect; whereas recourse should therefore be had to that Directive;

Whereas the detailed rules governing aid applications continue to be subject to the provisions of each sector; whereas, however, for the sake of simplification, Member States should be authorized to make provision for the submission of one single application for several aid schemes;

Whereas one of the main advantages of the new system is the introduction of an integrated control system in each Member State avoiding any duplication of sectoral checks of the same type; whereas, as a result, the stepping up of checks made necessary by the reform of the common agricultural policy should be attainable without substantially increasing the number of checks; whereas aid applications submitted must be subjected to a thorough administrative check carried out with the aid of computerized data bases; whereas, up to now, administrative checks have been supplemented systematically by checks on the spot; whereas, to a large extent, on-the-spot checks on areas may be replaced by remote sensing; Whereas the expenditure involved in introducing the integrated system may represent a high additional budgetary burden for Member States; whereas, consequently, provision should be made for part-financing for a certain period; whereas the diversity of existing production structures in the Member States must be taken into account; whereas, as a result, provision should be made for sharing out the financial contribution in a way which takes into account in particular the number of agricultural holdings, livestock numbers and the agricultural area in the Member States; Whereas provision should be made for the gradual implementation of all the elements of the integrated system,

HAS ADOPTED THIS REGULATION:

Article 1

1. Each Member State shall set up an integrated administration and control system, hereinafter referred to as the 'integrated system', applying:

(a) in the crop sector:

- the support system for producers of certain arable crops established by Regulation (EEC) No 1765/92 (7);

(b) in the livestock sector:

- to the premium arrangements for beef and veal producers established by Articles 4 (a) to (h) of Regulation (EEC) No 805/68 (8),

- to the premium arrangements for sheepmeat producers introduced by Regulation (EEC) No 3013/89 (9),

- to the specific measures for farming in mountain, hill and certain less-favoured areas introduced by Regulation (EEC) No 2328/91 (10) concerning compensatory allowances for cattle, sheep, goats and equidae,

hereinafter referred to as 'Community schemes'.

2. The Council may, acting by a qualified majority on a Commission proposal, extend the scope of the integrated system to other Community aid schemes.

3. For the purposes of applying Community aid schemes not covered by this Regulation and notwithstanding the specific provisions laid down under such schemes, in particular those concerning the terms under which aid may be granted, the Member States may incorporate in their administration and control mechanisms one or more of the administrative, technical or data-processing components of the integrated system.

Member States may extend this possibility to national schemes. They may use the information from the integrated system for statistical purposes.

Before availing themselves of these possibilities, Member States shall inform the Commission of their intentions in good time.

The Commission shall ensure that recourse to this possibility does not prejudice compliance with the provisions of the sectoral Regulations or of this Regulation.

4. Without prejudice to specific provisions provided for under the arrangements referred to in paragraph 1, for the purposes of this Regulation:

- farmer shall mean an individual agricultural producer, whether a natural or legal person or a group of natural or legal persons, whatever legal status is granted the group and its members by national law, whose holding is within Community territory,

- holding shall mean all the production units managed by a farmer situated within the same Member State's territory,

- agricultural parcel shall mean a continuous area of land on which a single crop is raised by a single farmer. In accordance with the procedure laid down in Article 12 the Commission shall adopt implementing arrangements for specific uses of agricultural parcels, in particular those concerning mixed crops and jointly used areas.

Article 2

The integrated system shall comprise the following elements:

- (a) a computerized data base;
- (b) an alphanumeric identification system for agricultural parcels;
- (c) an alphanumeric system for the identification and registration of animals;
- (d) aid applications;
- (e) an integrated control system.

Article 3

1. The computerized data base shall record, for each agricultural holding, the data obtained from the aid applications. This data base shall in particular allow direct and immediate consultation, through the competent authority of the Member State, of the data relating at least to the previous three consecutive calendar and/or marketing years.

2. The Member States may set up decentralized data bases on condition that these, and the administrative procedures for recording and accessing data, are designed homogeneously throughout the territory of the Member State and are compatible with one another.

Article 4

The alphanumeric identification system for agricultural parcels shall be established on the basis of land registry maps and documents, other cartographic references or of aerial photographs or satellite pictures or other equivalent supporting references or on the basis of more than one of these elements.

Article 5

The system for the identification and registration of animals to be taken into account for the granting of aid governed by this Regulation shall be set up in accordance with Articles 4, 5, 6 and 8 of Directive 92/102/EEC.

Article 6

1. In order to be eligible under one or more Community schemes governed by this Regulation, each farmer shall submit, for each year, an 'area' aid application indicating:

- agricultural parcels, including areas under forage crops, and agricultural parcels covered by a set-aside measure for arable land and those laid fallow,
- where applicable, any other necessary information provided for either by the Regulations relating to the Community schemes, or by the Member State concerned.

2. The area aid application must be submitted by a date to be fixed by the Member State which shall be during the first quarter of the year. However:

- in 1993, the Member State may fix a date not later than the dates referred to in Articles 10, 11 and 12 of Regulation (EEC) No 1765/92,
- in the following years, the Commission may, in accordance with the procedure laid down in Article 12, allow a Member State to fix a date between 1 April and the dates referred to in Articles 10, 11 and 12 of Regulation (EEC) No 1765/92, provided that the Member State can justify such a date, in particular by providing the Commission with a detailed working plan, which demonstrates that the requirements of the following subparagraph are fulfilled.

In all cases, the date shall be fixed bearing in mind, inter alia, the time required for all relevant data to be available for proper administrative and financial management of the aid and for the checks provided for in Article 8 to be carried out.

3. A Member State may decide that an 'area' aid application need contain only changes with respect to the 'area' aid application submitted for the previous year.

4. Certain amendments may be made to the 'area' aid application provided that they are received by the competent authorities, no later than the dates referred to in Articles 10, 11 and 12 of Regulation (EEC) No 1765/92.

5. The 'area' aid application, amended if necessary in accordance with paragraph 4, shall be deemed to be the aid application provided for in the scheme referred to in Article 1 (1) (a).

6. For each of the agricultural parcels declared, farmers shall indicate the area and its location which information must enable the parcel to be identified in the alphanumeric identification system for agricultural parcels.

7. Farmers applying only for aid under a scheme not directly linked to agricultural area may be exempted from the requirement to submit an 'area' aid application.

8. In order to be eligible for one of the Community schemes or arrangements referred to in Article 1 (1) (b), each farmer shall submit one or more 'animal' aid applications, at the latest by the dates set by the schemes concerned.

9. Where an aid application or amendments to it have to be accompanied by supplementary

documentation, such documentation shall be considered part of the application.

10. While abiding by the dates or periods laid down for submitting applications under Community rules, the Member States may decide that a single application can cover:

- several 'animal' aid applications,
- an 'area' aid application and one or more 'animal' aid applications.

Article 7

The integrated control system shall cover all aid applications submitted, in particular as regards administrative checks, on-the-spot checks and, if appropriate, verification by aerial or satellite remote sensing.

Article 8

1. Member States shall carry out administrative checks on aid applications.
2. Administrative checks shall be supplemented by on-the-spot checks covering a sample of agricultural holdings. For all these checks, Member States shall draw up a sampling plan.
3. Each Member State shall designate an authority responsible for coordinating the checks provided for in this Regulation.
4. National authorities may, under conditions to be laid down, use remote sensing to determine the area of agricultural parcels, identify crops and verify their status.
5. Where the competent authorities of the Member State delegate some aspects of the work to be carried out pursuant to this Regulation to specialized agencies or firms, they must retain control over and responsibility for that work.

Article 9

The Member States shall take the measures necessary to ensure protection of the data collected.

Article 10

1. The Community shall contribute to the expenditure incurred by Member States pursuant to this Regulation for the introduction of the computerized and checking structures and for the acquisition of aerial photographs or satellite pictures and the analysis thereof.

Expenditure on the updating of land registry maps shall not be co-financed by the Community.

2. The Community's financial contribution shall be granted for a period of three years from 1992, within the limits of the appropriations allocated for this purpose.

The total amount shall be shared among the Member States as follows:

- Belgium 2,3 %,
- Denmark 2,4 %,
- Germany 10,1 %,
- Greece 8,7 %,
- Spain 18,1 %,
- France 14,6 %,
- Ireland 4,5 %,
- Italy 20,1 %,
- Luxembourg 0,6 %,
- Netherlands 3,0 %,
- Portugal 5,7 %,
- United Kingdom 9,9 %.

The Community's financial contribution may not be greater than 50 % of the payments made by the Member State concerned in respect of the budget year and relating to the eligible expenditure within the meaning of paragraph 1.

3. Amounts expressed in ecus and national currencies shall be converted at the rates of exchange obtaining on the first working day of the calendar year in question published in the 'C' series of the Official Journal of the European Communities.

Article 11

1. The Commission shall be informed at regular intervals of the progress of work on the implementation of the integrated system. It shall organize exchanges of views on this subject with the Member States.

2. After informing the competent authorities concerned in good time, Commission officials may carry out:

- any examination or control relating to the body of measures taken in order to establish the integrated system and to the eligibility of expenditure declared under the Community co-financing provided for in Article 10;
- checks at the specialized agencies and firms referred to in Article 8 (5).

Officials of the Member State concerned may take part in such checks.

The aforementioned powers to check shall not affect the application of national criminal law provisions which reserve certain acts for officials specifically designated by national law. Commission officials shall in particular not participate in home visits to or the formal interrogation of suspects under the criminal law of the Member State. They shall, however, have access to the information obtained thereby.

3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialized bodies or persons in order to facilitate the establishment, monitoring and utilization of the integrated system, in particular with a view to providing the competent authorities of the Member States with technical advice, should they request it.

Article 12

The Commission shall adopt detailed rules for the application of this Regulation in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70. These detailed rules shall cover in particular:

- (a) the basic features of the alphanumeric identification system for agricultural parcels;
- (b) any amendments which may be made to the 'area' aid applications and exemption from the requirement to submit an 'area' aid application;
- (c) the minimum amount of information to be included in the aid applications;
- (d) the administrative and on-the-spot checks and the checks by remote sensing;
- (e) the establishment of an advance payment scheme for Community financial participation;
- (f) transitional provisions for the start-up period of the system;
- (g) communications between the Member States and the Commission;
- (h) the measures required to resolve specific practical problems. Such measures - if duly justified - may derogate from certain parts of this Regulation.

Article 13

1. The integrated system shall apply

- (a) from 1 February 1993 as regards aid applications, an alphanumeric system of identification and registration of bovine animals and the integrated control system referred to in Article 7;
- (b) from 1 January 1996 at the latest as regards the other elements referred to in Article 2.

2. With a view to implementation of the integrated system, the Member States shall:

- adopt the necessary laws, regulations and administrative provisions concerning paragraph 1 (a) before 1 February 1993, and those concerning paragraph 1 (b) before 1 June 1993;
- take the administrative, budgetary and technical measures necessary for the integrated system to be operational from the dates laid down in paragraph 1.

If, however, any parts of the integrated system are operational before the dates laid down in paragraph 1, the Member States shall use them for their management and checking activities.

Article 14

This Regulation shall enter into force on the seventh day following that of 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, 27 November 1992. For the Council

The President

J. PATTEN