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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1096/88

of 25 April 1988

establishing a Community scheme to encourage the cessation of farming

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, 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, given the outlook in the medium and long term for both the Community and world markets for agricultural products, the achievement of market balance calls for a prices policy that is likely, during the period of adjustment to the new situation, to entail serious income difficulties for that section of the farming population whose holdings are structurally the weakest;

Whereas it is appropriate that provision should be made for measures to help farmers who are over the age of 55, since they generally have serious difficulty in adjusting to the new situation;

Whereas a scheme to encourage the early cessation of farming constitutes a measure which would enable such persons to stop farming on reasonable terms by providing them with an adequate income;

Whereas such a measure would not only help to reduce production potential and so aid market stability but also help to improve farm structures by increasing both the size of holdings and the number of potentially viable holdings;

Whereas, if agricultural production is discontinued on the agricultural area concerned, the annual allowance must be supplemented by an annual premium per hectare, particularly if the said area is afforested;

Whereas the disappearance of holdings employing elderly family helpers and elderly paid workers in full-time agricultural work may entail for such persons the loss of their employment and income; whereas they should therefore be provided with a source of income by the grant of an annual allowance;

Whereas the diversity of the causes, nature and gravity of the structural problems in agriculture may call for regional differentiation of solutions, subject to adjustment with the passage of time; whereas a contribution must be made to the overall economic and social development of each region concerned; whereas the best results will be obtained if Member States, using Community criteria, themselves implement the common measure through their own legislative, regulatory and administrative mechanisms;

Whereas all the measures planned are in the interest of the Community and are designed to attain the objectives listed in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the satisfactory functioning of the common market; whereas these measures therefore constitute a common measure within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽⁴⁾, as last amended by Regulation (EEC) No 3769/85 ⁽⁵⁾; whereas it is, in addition, advisable to strengthen the Community financing of measures aimed at reducing production potential or to concentrate such financing on weakly structured regions the composite indicator of which, representing the economic and agricultural situation, is less than 85 % of the Community average;

Whereas it is appropriate that, two years after the date on which this Regulation enters into force, an examination be carried out of the way in which the measures in question operate, in particular of the way in which Community financial participation operates;

⁽¹⁾ OJ No C 236, 2. 9. 1987, p. 10.

⁽²⁾ OJ No C 49, 22. 2. 1988, p. 97.

⁽³⁾ OJ No C 319, 30. 11. 1987, p. 32.

⁽⁴⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁵⁾ OJ No L 362, 31. 12. 1985, p. 17.

Whereas, since the Community will help to finance the common measure, it must be able to ascertain whether the action taken by the Member States to apply it is consonant with the objectives to be attained; whereas, to this end, a procedure should be introduced for close cooperation between the Member States and the Commission through the agency of the Standing Committee on Agricultural Structures instituted by Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on the structure of agriculture ⁽¹⁾ and involving, in the case of financial matters, consultation of the European Agricultural Guidance and Guarantee Fund Committee, as provided for in Articles 11 to 15 of Regulation (EEC) No 729/70;

Whereas the European Parliament and the Council should be able to examine annually, on the basis of a report to be presented by the Commission, the results obtained from the Community and national measures applied, so that they can assess the need for supplementing or adjusting the arrangements introduced,

HAS ADOPTED THIS REGULATION:

Article 1

With a view to assisting the adjustment and reorganization of agricultural structures and thus helping to restore the balance between production and market outlets, a common measure within the meaning of Article 6 (1) of Regulation (EEC) No 729/70, to be implemented by the Member States, is hereby introduced in order to establish a scheme to encourage the cessation of farming.

Article 2

1. Member States may:

- exclude all or part of their territory from the application of all or some of the measures provided for in Article 3,
- differentiate the application of such measures from one region to another.

2. This Regulation shall not restrict the freedom of Member States to adopt, within the scope of this Regulation, additional aid measures the conditions or terms of which differ from those laid down herein, provided that such measures are adopted in accordance with Articles 92, 93 and 94 of the Treaty.

Article 3

1. The scheme provided for in Article 1 may comprise:

- the grant of an annual allowance to farmers practising farming as their main occupation, subject to the conditions laid down in Articles 4 and 5,
- the grant of a supplementary annual premium per hectare, subject to the conditions laid down in Article 6,
- the grant of an annual allowance to permanent paid agricultural workers and permanent family helpers, subject to the conditions laid down in Article 11.

2. Member States may replace the annual allowances referred to in paragraph 1, depending on the age of the recipient, by the payment of a single lump sum of equivalent effect.

They may also replace the annual allowance referred to in the first indent of paragraph 1 by the supplementary premium per hectare referred to in the second indent of paragraph 1 plus an increment to ensure equivalent effect.

Article 4

1. The annual allowance referred to in the first indent of Article 3 (1) may be granted to farmers who practise farming as their main occupation within the meaning of Article 2 (5) of Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures ⁽²⁾, as last amended by Regulation (EEC) No 1137/88 ⁽³⁾, who are over 55 years of age and who permanently cease all farming activities, provided that:

- either agricultural production on the agricultural area of the holding is halted throughout the whole period from the time of cessation of farming to the time when the farmer reaches the normal retirement age as fixed by the social security arrangement currently applicable to farming in the Member State concerned. This period must be not less than five years but for this purpose it may be extended, where appropriate, beyond the normal retirement age.

In the case of leased holdings, Member States may permit up to one-third of the area to be taken over by the owner without the cessation of production on that fraction of the area,

- or the agricultural area of the holding is used to enlarge that of one or more other agricultural holdings the farmer or farmers of which, at latest once the area is increased, practise farming as their main occupation and undertake not to increase production of surplus products on the total area of their holding after enlargement. Surplus products shall be those for which there are, systematically at Community level, no normal non-subsidized outlets.

2. Member States may permit the beneficiaries of the annual allowance to continue to farm up to 10%, but not

⁽¹⁾ OJ No L 136, 17. 12. 1962, p. 2892/62.

⁽²⁾ JO No L 93, 30. 3. 1985, p. 1.

⁽³⁾ OJ No L 108, 29. 4. 1988, p. 1.

more than 1 hectare of the area of the holding, provided that commercial production is definitively halted.

Article 5

1. 'Cessation of agricultural production' shall be taken to mean:

- either allocation of the agricultural area of the holding to afforestation or to a non-agricultural use compatible with the preservation of the quality of the environment,
- or the halting of agricultural production on the areas of the holding; in this case, the farmer who ceases farming may be required to maintain the agricultural area with a view, in particular, to the preservation of the countryside, provided that all commercial production is discontinued.

2. The cessation of production within the meaning of paragraph 1 may be effected on equivalent agricultural areas of other holdings following an exchange of parcels as a consolidation measure which enables production costs to be reduced or afforestation to proceed in a rational manner.

Article 6

1. The supplementary annual premium per hectare referred to in the second indent of Article 3 (1) shall be granted to beneficiaries meeting the conditions set forth in the first indent of Article 4 (1) and in Article 5, per hectare of agricultural area actually withdrawn from agricultural production.

2. Member States may also lay down rules whereby the premium referred to in paragraph 1 may be paid in whole or in part:

- in the case of a leased holding, to the owners of the agricultural area on which production is discontinued,
- to an agency accepting responsibility for maintenance of the farmland withdrawn from agricultural production.

Article 7

1. If the recipient of the annual allowance referred to in the first indent of Article 4 (1) discontinues milk production, the reference quantities allocated under Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as

last amended by Regulation (EEC) No 773/87 ⁽²⁾, and released under the arrangement referred to in the first indent of Article 4 (1) of this Regulation shall be suspended for the duration of payment of the annual allowance, and for at least five years, unless the recipient of the annual allowance receives compensation for the definitive abandonment of milk production as provided for in Council Regulation (EEC) No 1336/86 of 6 May 1986 fixing compensation for the definitive discontinuation of milk production ⁽³⁾, as last amended by Regulation (EEC) No 776/87 ⁽⁴⁾.

The reference quantities withdrawn pursuant to this Article may not be reallocated for the duration of such suspension.

2. The supplementary annual premium per hectare referred to in the second indent of Article 3 (1) shall not be eligible for a financial contribution from the European Agricultural Guidance and Guarantee Fund (hereinafter referred to as 'the Fund') if it is paid in respect of areas for which a premium for the definitive abandonment of areas under vines is paid pursuant to Council Regulation (EEC) No 777/85 of 26 March 1985 on the granting, for the 1985/86 to 1989/90 wine years, of permanent abandonment premiums in respect of certain areas under vines ⁽⁵⁾, as last amended by Regulation (EEC) No 1135/86 ⁽⁶⁾.

Article 8

Member States shall adopt decisions:

- as regards the age of recipients,
- as regards the use of the areas on which agricultural production is discontinued,
- as regards the amount and duration of the annual allowance, taking into account the age of the recipients and the economic and social situation of agriculture in their country,
- as regards any distribution of the annual allowance between two or more joint farmers,
- as regards the amount and duration of the supplementary premium per hectare, taking into account, in particular, the value of the land in terms of yield and the cost of its maintenance as referred to in the second indent of Article 5 (1),
- as regards the procedures for providing proof making it possible to ascertain that the condition referred to in the second indent of Article 4 (1) concerning non-increased production is complied with.

⁽²⁾ OJ No L 78, 20. 3. 1987, p. 1.

⁽³⁾ OJ No L 119, 8. 5. 1986, p. 21.

⁽⁴⁾ OJ No L 78, 20. 3. 1987, p. 8.

⁽⁵⁾ OJ No L 88, 28. 3. 1985, p. 8.

⁽⁶⁾ OJ No L 103, 19. 4. 1986, p. 32.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

Article 9

1. The Fund shall contribute, as provided in paragraph 2, towards the expenditure incurred by Member States pursuant to the first indent of Article 4 (1) and Article 6, within the following limits:

- the maximum eligible amount of the allowance shall be 3 000 ECU per year per holding. The Member States may distribute the annual allowance among two or more joint farmers where all such farmers simultaneously satisfy the conditions laid down in the first subparagraph of Article 4 (1). Where appropriate, assistance from the Fund shall be limited to the amount of the annual allowance supplementing the retirement pension paid to the recipient under the national social security arrangements,
- a maximum duration of 10 years but not beyond the recipient's 70th birthday,
- the maximum eligible amount of the supplementary premium shall be 250 ECU per hectare per year for the period during which agricultural production is actually discontinued on the area concerned, provided that the said period does not exceed that specified in the second indent.

If the agricultural area farmed by the recipient of the supplementary premium per hectare undergoes afforestation, the period of eligibility for the premium shall be extended to a maximum of 20 years and, in the case of farmers who do not qualify for the allowance referred to in Article 15 (3) of Regulation (EEC) No 797/85, the eligible amount shall be increased by a maximum of 50 ECU per hectare per year,

- the maximum eligible amount shall be 350 ECU per hectare per year or, in the case of afforestation, 400 ECU per hectare per year if the annual allowance is replaced by the supplementary premium per hectare. However, the maximum eligible amount resulting from the increase in the premium may not exceed the maximum amount of the annual allowance referred to in the first indent.
2. The Fund shall reimburse to the Member States 50 % of the eligible expenditure referred to in paragraph 1.

Article 10

1. The Fund shall contribute, as provided in paragraphs 2 and 3, towards the expenditure incurred by Member States in applying the scheme referred to in the second indent of Article 4 (1), subject to the following limits and conditions:

- the maximum eligible amount of the annual allowance shall be 3 000 ECU per year per holding. The Member States may distribute the annual allowance among two or more joint farmers where all such farmers simultaneously satisfy the requirements referred to in the first indent of Article 4 (1). Where appropriate, assistance from the Fund shall be limited to the amount of the annual allowance granted supplementing the retirement pension paid to the recipients under the national social security arrangements,

- the allowance shall be paid for a maximum duration of 10 years but not beyond the recipient's 70th birthday.

2. To determine the Community contribution to eligible expenditure, a Community list classifying the regions of the Community shall be adopted according to the procedure laid down in Article 14, by category.

This list shall be established on the basis of a composite indicator weighted as follows:

- (a) 75 %, the level of economic development measured by the indicator of the gross domestic product per inhabitant; and
- (b) 25 %, the share of agriculture in total employment, measured by the number of non-agricultural working persons as a ratio of total employment.

3. The Fund shall reimburse eligible expenditure to Member States, according to the category of the region in which the relevant abandoned holding is located, on the basis of the following percentages:

- 50 % where the regional composite indicator is less than 75 % of the Community indicator,
- 25 % where the regional composite indicator is equal to or more than 75 % but less than 85 % of the Community indicator.

Article 11

1. Member States may grant an annual allowance to permanent paid workers and permanent family workers aged between 55 and the normal age of retirement fixed for the agricultural sector under the social security arrangements of the Member State concerned:

- who have been engaged in agricultural work for at least five years before lodging an application and who have spent at least 50 % of their working time in agricultural work during this period,
- who have been engaged in agricultural work on the holding for which the farmer receives the annual allowance pursuant to Article 3 for at least the last two years before the application was lodged,
- who are covered by the social security arrangements,
- who undertake not to engage in any further agricultural work.

2. Member States shall determine the amount of the annual allowance taking due account, *inter alia*, of the economic and social situation of agriculture in their country and of that of the recipients. Member States may replace this allowance by a single lump-sum payment of equivalent effect.

3. The Fund shall contribute, as provided in paragraph 4, towards the expenditure incurred by Member States in applying the scheme referred to in paragraph 1:

- where the scheme applied to the abandoned farm is eligible under the terms of Articles 9 or 10,
- up to a maximum eligible amount of the allowance of 2 000 ECU per year for a paid worker or a family helper,
- provided that at most two allowances are paid per farm,
- subject to a maximum duration of 10 years, but not exceeding the normal age of retirement referred to in paragraph 1.

4. The Fund shall refund to the Member States:

- 50 % of eligible expenditure in the cases referred to in Article 9,
- in the cases referred to in Article 10:
 - 50 % of eligible expenditure in the areas referred to in the first indent of Article 10 (3),
 - 25 % of eligible expenditure in the areas referred to in the second indent of Article 10 (3).

Article 12

1. The estimated period of time required for carrying out the common measure shall be 10 years.

2. Two years after the entry into force of this Regulation, the detailed rules for its application and, in particular, the financial aspects shall be reviewed by the Council, on a proposal from the Commission.

3. The Fund's total contribution to the cost of the common measure is estimated at 465 million ECU for the first five years.

Article 13

1. The Member States shall forward to the Commission:

- drafts of all laws, regulations or administrative provisions which they propose to adopt pursuant to this Regulation,
- the text of any existing provisions which may make it possible to implement this Regulation.

2. When submitting, pursuant to paragraph 1, drafts of laws, regulations or administrative provisions or the text of existing provisions, the Member States shall also submit an explanatory memorandum showing the relationship at regional level between the measures in question and

economic and structural conditions in the agricultural sector together with proof that the measures are in keeping with the aim that stimulation of agricultural production through aid granted under this Regulation should be avoided.

3. The Commission shall examine drafts forwarded in accordance with the first indent of paragraph 1 for the purpose of determining whether, having regard to the objectives of this Regulation and to the need for a proper connection between the various measures, such drafts comply with the Regulation and thus satisfy the conditions for a financial contribution by the Community to the common measure referred to in Article 1. Within two months of the receipt of any draft, the Commission shall, after consulting the Standing Committee on Agricultural Structures, hereinafter referred to as 'the Committee', issue an opinion thereon.

4. Member States shall, on enactment of any law, regulation or administrative provision as referred to in paragraph 3, forward the text thereof to the Commission.

Article 14

1. With regard to provisions the texts of which are forwarded pursuant to the second indent of Article 13 (1) or to Article 13 (4), the Commission shall examine whether, having regard to the objectives of this Regulation and to the need for a proper connection between the various measures, such provisions satisfy the conditions for a financial contribution by the Community to the common measure referred to in Article 1. Within two months of the receipt of any text, the Commission representative shall, after consulting the Fund Committee on the financial aspects, submit a draft Decision thereon to the Committee.

2. The Committee shall issue its opinion within a time limit to be fixed by its Chairman according to the urgency of the matters for examination. It shall decide by a majority of 54 votes, the votes of Member States being weighted as laid down in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The Commission shall adopt the Decision. However, if the Decision is not in accordance with the opinion issued by the Committee, it shall immediately be communicated to the Council. In that event, the Commission may defer application of the Decision for a period not exceeding one month from the date of its communication.

The Council, voting as provided for in Article 43 (2) of the Treaty, may adopt a different Decision within one month.

Article 15

1. Measures taken by Member States shall not be eligible for a financial contribution from the Community unless a

favourable Decision under Article 14 has been taken in respect of the provisions relating thereto.

2. The financial contribution from the Community shall be provided only in respect of eligible expenditure arising in connection with aid granted pursuant to decisions taken after the date on which this Regulation enters into force.

Article 16

Detailed rules for the application of Articles 9 (2), 10 (3) and 11 (4) shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 17

1. Applications for reimbursement shall relate to expenditure incurred by Member States in the course of a given calendar year and shall be submitted to the Commission before 1 July of the following year.

2. The grant of aid from the Fund shall be decided on in accordance with Article 7 (1) of Regulation (EEC) No 729/70.

3. Payments on account may be authorized by the Commission.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 18

Before 1 August each year, the Community and national measures in force relating to this Regulation shall be examined in the context of an annual report which the Commission shall present to the European Parliament and the Council and for which Member States shall send all necessary documentation to the Commission.

The Council shall evaluate the results of such measures, taking into consideration the rate of structural development required to achieve the objectives of the common agricultural policy, the effect on the production objectives of the Community and on the harmonious development of the regions of the Community, and the financial implications of the measures in question.

If necessary, the Council shall, in accordance with the procedure laid down in Article 43 of the Treaty, adopt appropriate provisions.

Article 19

This Regulation shall enter into force on the third 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 Luxembourg, 25 April 1988.

For the Council
The President
H.-D. GENSCHER