II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 January 1974

conferring powers to carry out measures of control in Member States in respect of Community revenue and expenditure

(74/55/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities ;

Having regard to the provisional Rules of Procedure of the Commission of 6 July 1967, as last amended by the Decision of 6 January 1973 ;

Whereas Council Regulation (EEC) No 729/70 [1] of 21 April 1970 on the financing of the common agricultural policy provides in subparagraphs 3 and 4 of Article 9 (2) that the Commission can request Member States to carry out verifications or inquiries in which it may, in certain circumstances, invite administrative authorities of other Member States to participate ;

Whereas Council Regulation (EEC, Euratom, ECSC) No 2/71 [2] of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources provides in the first subparagraph of Article 14 (2) that the Commission can ask Member States to carry out additional measures of control or ask to be associated with measures of control which they are carrying out ;

Whereas Council Regulation (EEC) No 283/72 [3] 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 provides in the first subparagraph of Article 6 (1) that, where it considers that irregularities or negligence have taken place, the Commission may request the Member State concerned to hold an administrative inquiry ;

Whereas Council Regulation (EEC) No 858/72 [4] of 24 April 1972 on certain administrative and financial procedures for the operation of the European Social Fund provides in Article 5 (3) that the Commission may request Member States to carry out verifications or inquiries in which it may, in certain circumstances, invite administrative authorities of other Member States to participate ;

Whereas, if these powers are to be effectively utilized, the Commission must be able to take the necessary measures within a very short time ; whereas, to this end powers should be conferred on the Member of the Commission with responsibility for financial control, acting on behalf and under the responsibility of the Commission and with the approval of the President and of the Member of the Commission with responsibility for Community revenue and expenditure concerned and the drawing up of the applicable customs provisions ;

Whereas such powers shall be subject to Commission supervision and exercised in accordance with guidelines laid down by the Commission ;

(1) OJ No L 94, 28. 4. 1970, p. 13.
(2) OJ No L 3, 5. 1. 1971, p. 1.
(3) OJ No L 36, 10. 2. 1972, p. 1.
(4) OJ No L 101, 28. 4. 1972, p. 3.

Whereas the Commission shall be informed whenever the powers conferred are exercised;

Whereas this conferring of powers shall not preclude discussion of any matter by the whole Commission whenever it shall consider this to be necessary,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Member of the Commission with responsibility for financial control, acting with the approval of the President, the Member with responsibility for the auditing of the revenue and expenditure concerned, and of the Member with responsibility for drawing up the applicable customs provisions, shall be empowered, in accordance with guidelines laid down by the Commission, to take the implementing measures under Article 9 (2), subparagraphs 3 and 4 of Regulation (EEC) No 729/70, under Article 14 (2), subparagraph 1 of Regulation (EEC, Euratom, ECSC) No 2/71, under Article 6 (1), subparagraph 1 of Regulation (EEC) No 283/72, and under Article 5 (3) of Regulation (EEC) No 858/72.

Where the matter is urgent and in the absence of the Members thus empowered, with the exception of the Member with responsibility for financial control, approval may be given by the Directors-General or heads of department with responsibility for the revenue and expenditure concerned and the drawing up of the applicable customs provisions.

In the absence of the President, approval may be given by the President's Chef de Cabinet.

2. The Member of the Commission empowered under paragraph 1 shall act on behalf and under the responsibility of the Commission. He shall inform the Commission of the decision taken.

3. Each measure taken under paragraph 1 of this Article shall be communicated to the Commission.

Article 2

This Decision shall enter into force on 23 January 1974.

Done at Brussels, 22 January 1974.

For the Commission

The Vice-President

W. HAFERKAMP