28.4.72 Official Journal of the European Communities No L 101/3

REGULATION (EEC) No 858/72 OF THE COUNCIL

of 24 April 1972

on certain administrative and financial procedures for the operation of the European Social Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 127 and 209 thereof;

Having regard to the Council Decision of 1 February 1971[1] on the reform of the European Social Fund;

Having regard to Council Regulation (EEC) No 2396/71[2] of 8 November 1971 applying the Council Decision of 1 February 1971 on the reform of the European Social Fund, and in particular Article 8 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas provisions should be laid down governing the submission to the Commission of applications for assistance from the Fund and governing the notification of decisions approving or refusing such applications;

Whereas for the purposes of Article 8 (2) of Regulation (EEC) No 2396/71 it is necessary to lay down the procedure under which payments on account may be granted and the balance of the assistance paid;

Whereas provision should be made for cases where irregularities or substantial changes occur in the nature or details of an operation;

Whereas the expenditure of the Fund must be subject to appropriate supervision; whereas, without prejudice to checks carried out by the Member States on their own initiative, it must be made possible for servants of the Commission to make investigations in collaboration with the competent services of the Member States;

HAS ADOPTED THIS REGULATION:

Forwarding of applications for assistance

Article 1

Each Member State shall inform the Commission of the procedure which it has laid down for the submission of applications for assistance and for forwarding them to the Commission.

The Commission shall make these procedures known by a notice published in the *Official Journal of the European Communities*.

Article 2

1. In respect of applications for assistance from any body or other entity governed by private law referred to in Article 8 (2) of the Council Decision of 1 February 1971, the Commission shall be informed of the expenditure which the public authorities would undertake to bear if those applications were approved.

2. Without prejudice to Article 4, the Member State concerned shall, in respect of each application, give the Commission the information necessary to enable it to effect payment of the assistance to be granted.

[1] OJ No L 28, 4.2.1971, p. 15.
[2] OJ No L 249, 10.11.1971, p. 54.

Approval of applications for assistance

Article 3

1. The Commission shall acknowledge receipt of all applications for assistance. It shall decide four times each year on applications for assistance properly submitted. However, when an exceptional and urgent case is put before it, the Commission may decide immediately on receipt of the application. All decisions giving or refusing approval shall be notified by the Commission to the Member State concerned, which shall inform the party responsible for the operation. If a decision is deferred the Member State concerned shall be informed by the Commission.

2. Decisions giving approval shall specify the total amount of the appropriations made available in yearly instalments by way of assistance from the Fund.

Payment of assistance

Article 4

1. Payments on account may be made as the operation progresses on submission of a detailed statement of the expenditure relating thereto and having regard to commitments entered into by other parties, and in particular payments to be made by them. Payments on account may not total more than 85% of the assistance granted.

The balance shall be paid after the Commission has received a general statement of expenditure drawn up on conclusion of the operation and accompanied by supporting documents. These payments shall, where appropriate, be made subject to the investigation referred to in Article 5.

Accounts for an operation where the party responsible is a body or other entity governed by private law referred to in Article 8 (2) of the Council Decision of 1 February 1971 may be settled only after confirmation of the financial commitment on the part of the public authorities or, where appropriate, notification of changes in that commitment.

2. The Commission shall notify all payments made to the Member concerned, which shall then inform the party responsible for the operation.

3. The Commission may suspend payment of assistance for an operation if a check reveals either irregularities, or an essential change in the nature or details of that operation which has not been submitted to the Commission for approval.

Checks

Article 5

1. Member States shall make available to the Commission all information necessary for the proper functioning of the Fund and shall take all measures to facilitate such checks as the Commission may think fit to make within the framework of the administration of the Fund including investigations on the spot.

2. Without prejudice to the checks carried out by Member States in accordance with provisions laid down by national law, regulation or administrative action, and without prejudice to Article 206 of the Treaty or to any inspection arranged pursuant to Article 209 (c) of the Treaty, servants authorized by the Commission to make investigations on the spot shall have access to the books and any other documents connected with expenditure financed by the Fund. They may in particular check:

(a) that the administrative practices conform to Community rules;

(b) that the necessary supporting documents exist and tally with the operations financed by the Fund;

(c) the manner in which the operations financed by the Fund are carried out and supervised.

In good time before the investigation, the Commission shall inform the Member State concerned or that on whose territory the investigation is to be made. Representatives of the Member State concerned may take part in this investigation.

3. At the request of the Commission and with the agreement of the Member State concerned, investigations or inquiries concerning operations financed by the Fund shall be carried out by the competent authorities of that Member State. Servants of the Commission may take part.

In order to improve the facilities for investigation, the Commission may, with the agreement of the Member States concerned, invite administrative authorities of those Member States to participate in certain investigations or inquiries.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall, as required, adopt general rules for the application of this Article.

Annual report

Article 6

Every year the Commission shall, before 1 July, submit to the Council and to the European Parliament a report on the activities of the Fund during the past financial year and on the development foreseeable in the coming three years in expenditure relating to measures taken pursuant to Articles 4 and 5 of the Council Decision of 1 February 1971.

Entry into force

Article 7

This Regulation shall enter into force on the first day of the month 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 Membet States.

Done at Luxembourg, 24 April 1972.

For the Council

The President

G. THORN