COUNCIL REGULATION (EEC) No 2894/77

of 20 December 1977

amending Regulation (EEC) No 858/72 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 proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas, in the light of experience and of the development of the employment situation in the Community, the general rules governing the action and operation of the Fund should be improved and in particular Council Regulation (EEC) No 858/72 of 24 April 1972 on certain administrative and financial procedures for the operation of the European Social Fund (3) should be amended;

Whereas, in order to simplify and speed up the procedures for the granting and payment of assistance from the Fund, such procedures should be changed and should in particular provide for the possibility of payment of advances at the request of the Member State concerned;

Whereas provision should be made for arrangements whereby sums already paid, particularly those paid in advance, can be recovered in cases where irregularities or substantial changes occur in the nature or conditions of an operation;

Whereas the Member States should submit claims for payment to the Commission and certify their accuracy;

Whereas transitional provisions should be laid down to enable the new rules to be implemented progressively and to speed up the settlement of claims for payment already approved by the Commission,

(1) OJ No C 133, 6. 6. 1977, p. 39.
(2) OJ No C 126, 28. 5. 1977, p. 2.
(3) OJ No L 101, 28. 4. 1972, p. 3.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 858/72 shall be amended as follows:

1. The words '(or, in Member States where this concept is unknown, from equivalent entities)' shall be added after the words 'or other entity governed by private law' in Article 2 (1).

2. Article 3 shall be replaced by the following:

'*Article 3*

1. The Commission shall acknowledge receipt of all applications for assistance. It shall decide on applications for assistance properly submitted and shall notify the Member State concerned, which shall inform the party responsible for the operation, of all decisions granting or refusing approval.

2. Decisions granting approval shall specify the total amount of the appropriations made available by way of assistance from the Fund, broken down into instalments in the case of multiannual operations.'

3. Article 4 shall be replaced by the following:

'*Article 4*

1. An amount equal to 30 % of the assistance granted shall be paid, by way of advance, as soon as the Member State concerned has certified that the operation has begun. Where appropriate, the Commission shall inform the party responsible for the operation that the payment has been made.

A second advance, up to an equal amount, may be paid as soon as the Member State has certified that half the operation has been carried out within the framework of the conditions laid down in the decision granting approval.

Where a decision granting approval relates to multiannual operations:

— advances shall be paid on the basis of each instalment,

— additional payments may be made after the completion of each instalment as soon as the Commission has received a claim for payment from the Member State concerned accompanied by a report on the completion of the instalment and, if the assistance is granted on the basis of actual costs, a general statement of expenditure.

The balance shall be paid as soon as the Commission has received a claim for payment from the Member State concerned, accompanied by a report on the completion of the operation and, if the assistance is granted on the basis of actual costs, a general statement of expenditure.

The Member State shall certify the factual and accounting accuracy of the particulars given in each claim for payment.

2. The Commission shall inform the Member State concerned of any payment made. The Member State concerned shall then inform the party responsible for the operation.

At the request of the Member State concerned the Commission shall inform it of the problems encountered in paying the assistance.

3. If a check reveals irregularities or an important change not approved by the Commission in the nature or circumstances of an operation receiving assistance from the Fund, assistance may be suspended, reduced or terminated by a decision taken by the Commission after the Member State has had an opportunity to submit its comments.

The liability of the Member State concerned shall be secondary to that of the party responsible for the operation as regards the sums to be reimbursed.

To the extent that the Member State with secondary liability pays to the Community the sums to be reimbursed by the party responsible for the operation, it shall be subrogated to the rights of the Community.

The decision of the Commission shall specify the amount of any sums to be recovered and the procedures for recovery.

The decision of the Commission shall be notified to the Member State concerned and to the party responsible for the operation.'

4. Article 6 shall be replaced by the following:

'*Article 6*

Every year the Commission shall, before 1 July, submit to the European Parliament and to the Council a report on the activities of the Fund carried out during the past financial year giving *inter alia* a breakdown of the appropriations committed for operations during that financial year. The report shall also cover the foreseeable developments in the coming three years regarding expenditure relating to actions undertaken pursuant to Articles 4 and 5 of Decision 71/66/EEC.'

Article 2

1. Regulation (EEC) No 858/72, in the version in force before the date of entry into force of this Regulation, shall continue to apply to operations or parts of operations carried out before 1 January 1978.

2. By way of derogation from paragraph 1, where claims for payment are submitted:

— before 1 July 1978 in the case of operations or parts of operations carried out before 1 January 1977,

— before 1 January 1979 in the case of operations or parts of operations carried out during 1977,

payments on account of 85 % of the amounts set out in the claims within the limits of the approved sums may be made provided that the Member State concerned certifies the factual and accounting accuracy of the particulars given in the claim for payment.

Where this paragraph applies, the balance shall be paid in accordance with Regulation (EEC) No 858/72, as amended by this Regulation.

Article 3

This Regulation shall enter into force on 1 January 1978 and shall apply to operations or parts of operations carried out from that date.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 December 1977.

For the Council

The President

H. SIMONET