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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1360/78
of 19 June 1978
on producer groups and associations thereof

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 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 a feature of the Community at present is the variation in the situation regarding the supply and marketing of agricultural products in the different regions;

Whereas in Italy the supply of agricultural products reflects very severe structural deficiencies; whereas the market is supplied by a very large number of holdings which are small in size and insufficiently organized; whereas, in particular, the information available indicates that only about 16 % of Italian holdings are members of producer organizations set up to market produce and only about 13 % of the value of Italy's total agricultural output is marketed by such organizations; whereas, with a few exceptions, these structural deficiencies as regards supply affect the whole of Italy; whereas, by reason of their limited nature, these exceptions do not prevent the situation in Italy as a whole being taken into consideration;

Whereas in France similar deficiencies have been observed in certain southern regions principally in the table wine sector, where supply comes from a large number of small cooperative groups and is only to a small degree (between 5 % and 10 %) provided by reasonably large producer organizations; whereas such deficiencies also occur in these regions in the table olives sector, where producer organizations are practically unknown and in the case of plants for perfumery, where producer organizations are just beginning; whereas there are also serious structural deficiencies in the supply of agricultural produce in the French overseas departments in respect of tropical fruits and beef and veal products, less than 12 % of which are marketed by producer organizations;

Whereas in Belgium serious structural deficiencies in supply have been noted in the case of cereals, only 15 % of total production of which is marketed by producer organizations, and in the case of live bovine animals, piglets and lucerne, less than 3 % of which is marketed by producer organizations;

Whereas the persistence of the above deficiencies is an obstacle to the fulfilment of the objectives of Article 39 (1) of the Treaty inasmuch as it makes it difficult to increase agricultural productivity, to promote technical progress, to ensure rational development of agricultural production and optimum use of the factors of production, to ensure a fair standard of living for the agricultural community and to stabilize markets; whereas, furthermore, this situation is likely to affect the level of prices to consumers;

Whereas this situation can be remedied by grouping farmers so that the economic process can be influenced by common measures designed to centralize supply and adapt production to market requirements; whereas such grouping should therefore be encouraged henceforth the regions concerned without however preventing the arrangements envisaged being extended to other regions which give proof of similar requirements;

Whereas, however, steps should be taken to ensure, by means of a system of recognition, that the grouping of holdings takes place within bodies with the appropriate production and marketing discipline, which offer sufficient guarantees as to the stability and effectiveness of their action and do not, by virtue of their

(1) OJ No C 36, 13. 2. 1978, p. 43.
(2) OJ No C 59, 8. 3. 1978, p. 25.

position and their economic activity, conflict with the operation of the common market and the general objectives of the Treaty;

Whereas in order to promote greater centralization of supply than can be achieved by one group, encouragement should be given not only to the grouping of farmers within producer groups but also to the formation of associations of such groups;

Whereas the granting of aid to cover part of the formation and operating expenses would be an appropriate incentive for the creation of groups and associations thereof and for the adaptation of existing producer organizations to the conditions laid down;

Whereas the aid granted to the associations should however be limited to an overall maximum sum so as to take account of the fact that each of the groups which belong to such associations has already received or is still receiving aid for formation and operation;

Whereas in order to guarantee that the proposed system is implemented in all those regions of the Community where it is considered necessary, the granting of aid to groups and associations thereof should be made obligatory; whereas maximum amounts should be laid down for such aid although it should be made possible to exceed these limits in the case of certain aid for regions or sectors encountering special difficulties;

Whereas it is appropriate to stipulate that, for the information of the Member States and of all those concerned, a list of those groups and associations thereof which were granted recognition or from which recognition was withdrawn during the preceding year should be published at the beginning of each year;

Whereas all the proposed measures are in the Community interest and are designed to achieve the objectives outlined in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the proper functioning of the common market; whereas they 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 (1), as last amended by Regulation (EEC) No 2788/72 (2);

Whereas the Commission must be able to ensure that the provisions introduced by the Member States to apply this common measure fulfil the relevant conditions; whereas it should also be able to assess each year the practical results of the implementation of the common measure;

(1) OJ No L 94, 28. 4. 1970, p. 13.
(2) OJ No L 295, 30. 12. 1972, p. 1.

Whereas aid from the European Agricultural Guidance and Guarantee Fund, hereinafter referred to as 'the Fund', over a period of five years at an estimated cost of 24 million units of account can help to improve the supply structure for agricultural produce in regions where such an improvement is essential;

Whereas to facilitate the future implementation of certain proposed measures, a procedure establishing close cooperation between the Member States and the Commission should be introduced; whereas the appropriate body for ensuring such cooperation is the Standing Committee on Agricultural Structures set up under Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on the structure of agriculture (3),

HAS ADOPTED THIS REGULATION:

Article 1

To remedy the structural deficiencies affecting the supply and marketing of agricultural products in certain regions, resulting from insufficient producer organization, this Regulation hereby introduces a system to encourage the formation of producer groups and associations thereof in those regions.

TITLE I

Scope

Article 2

Subject to the conditions laid down in Article 3, this Regulation shall apply to the following regions:

— the whole of Italy,

— the French regions of Languedoc-Roussillon, Provence-Côte d'Azur, Midi-Pyrénées, Corsica, the departments of Drôme and Ardèche and the French overseas departments,

— the whole of Belgium.

Article 3

1. In the case of Italy this Regulation shall apply to the following products provided that such products are produced in Italy:

— the products of the soil and the livestock products listed in Annex II to the Treaty, excluding:

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

— products referred to in Article 1 (2) of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables (1), as last amended by Regulation (EEC) No 1154/78 (2),
— hops (heading No 12.06 of the Common Customs Tariff),
— silkworms (subheading ex 01.06 C of the Common Customs Tariff);
— the processed agricultural products listed in the Annex hereto.

2. In the case of the French regions, this Regulation shall apply to the following products;

— table wines and grape musts (heading Nos 22.04 and 22.05 of the Common Customs Tariff) in Languedoc-Roussillon, Provence-Côte d'Azur, Midi-Pyrénées and Corsica,
— plants used in perfumery and lavender (heading No ex 12.07 of the Common Customs Tariff) in Provence-Côte d'Azur and in the departments of Drôme and Ardèche,
— table olives (subheading 07.02 A of the Common Customs Tariff) in Languedoc-Roussillon, Provence-Côte d'Azur, Corsica and the department of Drôme,
— tropical fruit (subheading 08.01 B, C and D of the Common Customs Tariff), live bovine animals (heading No 01.02 of the Common Customs Tariff) and beef and veal carcases or quarters (subheading ex 02.01 A II of the Common Customs Tariff) in the French overseas departments.

3. In the case of Belgium, this Regulation shall apply to the following products:

— cereals (heading Nos 10.01 to 10.05 of the Common Customs Tariff),
— live bovine animals (subheading 01.02 A of the Common Customs Tariff),
— piglets (heading ex 01.03 of the Common Customs Tariff),
— lucerne (heading ex 12.10 of the Common Customs Tariff).

TITLE II

Recognition of producer groups and associations thereof

Article 4

In the regions referred to in Article 2, the Member States concerned shall recognize producer groups and associations thereof, including those in existence when this Regulation comes into force:

(a) which apply for recognition;

(b) which fulfil the conditions listed in Articles 5 and 6;

(c) provided that, in the case of groups:

— at least two-thirds of the members operate undertakings in the regions referred to in Article 2,
— at least half of the produce marketed in accordance with Article 6 (1) (c) comes from the regions referred to in Article 2.

Recognition shall cover the activities relating to the production and marketing of the products referred to in Article 3 for each of the regions to which this Regulation applies.

Article 5

1. Producer groups shall:

— be set up for the purpose of jointly adapting the production and output of the producers who are members of such groups to market requirements;
— consist of:
— individual producers, or
— individual producers and organizations for producing or increasing returns from agricultural products, consisting solely of agricultural producers.

'Producer' shall be taken to mean any person working an agricultural holding situated within Community territory:

— who produces the products of the soil and livestock products listed in Article 3, or
— who, while being a primary producer, produces the processed products listed in Article 3.

2. The Member States concerned may, when their national provisions so provide, recognize producer groups which also include persons other than those covered by paragraph 1. In such cases the groups' statutes must ensure that the members covered by paragraph 1 retain control over the groups and any decisions the latter may take.

3. Associations shall consist of recognized producer groups and shall pursue the same objectives as those groups, but on a larger scale.

Article 6

1. All producer groups or associations thereof shall, within the limits of the sector of the product or products in respect of which they are recognized, fulfil the following general conditions:

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 144, 31. 5. 1978, p. 5.

(a) they shall, through the activities in respect of which they request recognition, contribute to the achievement of the objectives of Article 39 of the Treaty ;

(b) they shall decide on and apply in respect of persons covered by Article 5 (1) :

— common rules for production,

— common rules for placing goods on the market ;

(c) their statutes shall make it obligatory for producers who are members of groups and for recognized producer groups which are members of the association :

— to place on the market the whole of the production intended for marketing in respect of the products for which they are members of the group or association in accordance with rules for contributions and placing goods on the market which are established and supervised either by the group or by the association,

— or to have the whole of the production intended for marketing in respect of the products for which they are recognized placed on the market by the group of the association either on their behalf and for their account or for their account but on behalf of the group or association or for the account of and on behalf of the group or association. The group or association may, however, authorize its members to place part of their production on the market in accordance with the first indent.

With regard to the producer groups, this obligation shall not apply to that part of the production in respect of which the producers had concluded sales contracts or agreed to options before joining the group, provided that the group was informed, before the producer concerned joined, of the extent and duration of the obligations thus contracted ;

(d) their statutes shall include provisions to ensure that the members of a group or of an association who wish to withdraw from membership may do so :

— after they have been members of the group or of the association for a minimum of three years following recognition thereof,

— and on condition that they inform the group or the association in writing of their intention to withdraw not less than 12 months before so doing.

These provisions shall apply without prejudice to national laws or provisions designed to protect the group or association or their creditors, in specified cases, against any financial consequences which might result from the withdrawal of a member or to preclude withdrawal of a member in the course of the financial year ;

(e) they shall give proof of adequate economic activity ;

(f) without prejudice to Article 4 (c), they shall exclude, as regards their constitution and the whole range of their activities, any discrimination which runs counter to the operation of the common market and the achievement of the general objectives of the Treaty and, in particular, any discrimination connected with the nationality or place of establishment :

— of producers or groups which may become members, or

— of their economic partners ;

(g) they shall have legal personality or sufficient legal capacity to exercise rights and be subject to obligations in accordance with national laws ;

(h) they shall keep separate accounts for activities in respect of which they are recognized. These separate accounts and those relating to any other activities of the group or association may be inspected with a view to ascertaining whether the condition laid down in (e) is still fulfilled, calculating the amount of aid and ascertaining the use which has been made of it ;

(i) they shall not hold a dominant position in the common market, unless this is necessary for the pursuit of the objectives laid down in Article 39 of the Treaty ;

(j) producer groups to which organizations referred to in Article 5 (1), second indent, also belong shall also make it compulsory in their statutes for the latter to ensure that their members comply with the conditions in (b) and (c) at the latest as from the date :

— on which recognition takes effect, or

— on which they join if this is later than the date of recognition.

2. The placing of goods on the market for the purposes of paragraph 1 (b) and (c) shall cover the following operations :

— centralization of supply,

— preparation for sale,

— supply to bulk buyers.

3. Within six months of the entry into force of this Regulation and in accordance with the procedure laid down in Article 16 provisions shall be adopted concerning :

— the criteria which the common rules provided for in paragraph 1 (b) shall meet, where necessary,

— the minimum cultivated area, turnover, or volume of production of the product or group of products concerned coming from members which, under paragraph 1 (e), these groups or associations must represent and, if necessary, the minimum number of members they shall have.

Article 7

The Member States concerned :

— shall take a decision on recognition within three months of the date on which recognition is requested,

— shall make their decision known to the Commission within two months.

Article 8

Recognition of a producer group or of an association shall be withdrawn :

(a) if the conditions for recognition laid down in this Regulation were not or are no longer fulfilled ;

(b) if such recognition is based on erroneous information ;

(c) if the group or association obtained recognition by irregular means ;

(d) if the Commission decides that Article 85 (1) of the Treaty applies to the agreements, decisions and practices referred to in Article 17 of this Regulation.

In the case provided for in (c), withdrawal of recognition shall have retroactive effect and aid granted pursuant to Article 10 shall be recovered.

Article 9

At the beginning of each year the Commission shall ensure that the list of producer groups and associations recognized during the previous year, divided according to products or groups of products, is published in the *Official Journal of the European Communities.*

It shall also ensure that withdrawals of recognition decided on during the previous year are published.

TITLE III

Aid to producer groups and associations thereof

Article 10

1. The Member States concerned shall grant aid to recognized groups and associations, during the three years following the date of their recognition, to encourage their formation and to facilitate their operation. The amount of such aid may be paid over five years.

2. The amount of aid granted to producer groups for the first, second and third year respectively :

(a) shall be equal to : a maximum of 3 %, 2 % and 1 % of the value of the products

— coming from the members referred to in the second indent of Article 5 (1), and

— to which recognition relates and which are placed on the market ;

(b) may not, however, exceed 60 %, 40 % and 20 % of the actual formation and operating expenses.

3. The amount of aid granted to associations :

(a) shall be equal to a maximum of 60 %, 40 % and 20 % of the actual formation and operating expenses for the first second and third year respectively ;

(b) may not, however, exceed a total of 50 000 units of account.

4. Larger amounts than those provided for in paragraphs 2 and 3 may be fixed for a specified period by the Council, acting by a qualified majority on a proposal from the Commission, in respect of certain regions and certain products encountering special difficulties in adapting to the conditions and economic implications of the common agricultural policy.

Article 11

1. The aid provided for in Article 10 shall be granted only :

— in so far as a group or an association has not already received aid under national provisions,

— in proportion to the actual additional expenditure on formation and operation incurred in complying with the requirements of Article 6, in the case of producer groups or associations :

— in existence for more than three years on the date of entry into force of this Regulation,

— formed from existing organizations or set up by producers who are members of such organizations.

2. The value of the products referred to in Article 10 (2) (a) shall be calculated for each year as a flat rate on the basis of :

— the annual volume placed on the market in accordance with Article 6 (1) (c),

— the average producer prices obtained.

3. The necessary definitions of actual formation and operating expenditure within the meaning of Article 10 (2) (b) and (3) (a) shall be adopted within six months of the entry into force of this Regulation in accordance with the procedure laid down in Article 16.

TITLE IV

Financial and general provisions

Article 12

The set of measures provided for in this Regulation shall constitute a common measure within the meaning of Article 6 (1) of Regulation (EEC) No 729/70.

Article 13

1. The period envisaged for the implementation of the common measure shall be five years from the date on which this Regulation becomes applicable, pursuant to Article 20.

2. Before the period referred to in paragraph 1 expires, this Regulation shall be reviewed by the Council on a proposal from the Commission and on the basis of a report by the Commission showing the results of its application.

3. The estimated total cost of the common measure to be borne by the Guidance Section of the Fund is 24 million units of account.

4. Article 6 (5) of Regulation (EEC) No 729/70 shall apply to this Regulation.

Article 14

1. The expenditure incurred by the Member States in connection with the measures provided for in Article 10 (1), (2) and (3) shall be chargeable to the Guidance Section of the Fund.

The Council, acting by a qualified majority on a proposal from the Commission, may declare that expenditure incurred by the Member States in connection with the measures referred to in Article 10 (4) shall be chargeable to the Fund.

2. The Guidance Section of the Fund shall refund 25 % of the chargeable expenditure to the Member States.

3. The Council, acting by a qualified majority on a proposal from the Commission, may decide on Community participation of more than 25 % and up to 50 % in the chargeable expenditure on aid incurred by the Member States concerned, of an amount equal to the maxima laid down in Article 10 (2) and (3), to :

(a) producer groups of which at least two-thirds of the members operate undertakings in regions coming within the scope of this Regulation which are encountering special difficulties in adapting to the conditions and economic implications of the common agricultural policy ;

(b) associations of which at least two-thirds of the members fulfil the conditions laid down in (a).

4. The Community's financial participation shall cover chargeable expenditure in respect of aid granted after the date of entry into force of this Regulation.

5. Detailed rules for the application of paragraph 2 shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 15

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

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

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

4. The 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 16

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee on Agricultural Structure by the chairman either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver an opinion on those measures by a majority of 41 votes, within a time limit set by the chairman according to the urgency of the matter under examination ; the votes of the Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures which shall be immediately applicable. However, if such measures are not in accordance with the opinion of the Standing Committee on Agricultural Structure, they shall be communicated forthwith by the Commission to the Council. In that case, the Commission may defer for not more than one month from the date of such communication, application of the measures which it has adopted.

The Council, acting by a qualified majority, may adopt a different decision within one month.

Article 17

Should the Commission decide, pursuant to Article 2 of Regulation No 26 applying certain rules of competition to production of and trade in agricultural products [1], that Article 85 (1) of the Treaty is applicable to agreements, decisions or practices :

— by which persons referred to in Article 5 (1), second indent, join together in a group fulfilling the conditions laid down in this Regulation, or groups form an association fulfilling the conditions of this Regulation,

— or by which the common rules referred to in Article 6 (1) (b) are adopted or executed,

a decision relating thereto shall apply only from the date on which the Commission reached its conclusion.

Article 18

This Regulation shall not prejudice the right of the Member States to adopt, within the sphere of this Regulation, additional aid measures, the conditions or procedures for the granting of which differ from those laid down in this Regulation or the amounts of which exceed the upper limits laid down therein, provided that these measures are taken in accordance with Articles 92, 93 and 94 of the Treaty.

Article 19

The Member States concerned shall communicate to the Commission :

— the laws, regulations and administrative provisions concerning the application of this Regulation not later than one month after they have been adopted,

— a report on the results of the application of this Regulation each year before 31 March, and for the first time before 31 March 1979.

Article 20

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

It shall apply as from the entry into force of the provisions referred to in Article 6 (3), second indent.

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

Done at Luxembourg, 19 June 1978.

For the Council

The President

P. DALSAGER

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[1] OJ No 30, 20. 4. 1962, p. 993/62.

ANNEX

List of 'processed products' referred to in Article 3 (1)

CCT heading No	Description
ex 02.01 A	Meat : — of bovine animals, in quarters — of swine, in half-carcases — of sheep, in carcases — of horses
ex 02.01 B	Edible offals of bovine animals, swine and sheep
02.02	Dead poultry (that is to say, fowls, ducks, geese, turkeys and guinea fowls) and edible offals thereof (except liver), fresh, chilled or frozen
02.03	Poultry liver, fresh, chilled, frozen, salted or in brine
ex 02.04	Rabbit meat
04.04	Cheese and curd
ex 12.10 B	Dehydrated fodder
15.07 A	Olive oil
22.04	Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol
22.05	Wine of fresh grapes ; grape must with fermentation arrested by the addition of alcohol