COUNCIL REGULATION (EEC) No 768/89

of 21 March 1989

establishing a system of transitional aids to agricultural income

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the Euopean Economic Community, and in particular Articles 42 and 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 the Community's policy on agricultural structures has been supplemented by certain measures designed, in particular, to make it easier for farmers to adapt to the new circumstances obtaining on agricultural markets in the context of the current reform of the common agricultural policy and in particular of the adjustment of the market organizations; whereas, however, such measures may not provide sufficient assistance for certain categories of family holdings;

Whereas, this being the case, and in accordance with the conclusions of the European Council which met in February 1988 in Brussels, Member States should have the option of granting transitional aids to agricultural income to provide support for the efforts of weak agricultural holdings, which would otherwise not be able to adapt successfully owing to their economic and structural situation, to adjust; whereas such aids also contribute towards maintaining a fair standard of living for the agricultural community in accordance with the objective laid down in Article 39 (1) (b) of the Treaty and therefore towards safeguarding the balances necessary to the vitality of rural society, given the requirements relating to the protection of the landscape and of the environment;

Whereas, in order to ensure the necessary transparency of such temporary aids and compliance with Community conditions laid down to prevent any jeopardizing of the Community's objectives as regards market reform in particular, the aids to income under consideration should be granted subject to prior approval by the Commission of programmes of agricultural income aids drawn up by the Member States planning to introduce such measures; whereas, in order to avoid distortion of competition between agricultural producers, such programmes must in particular establish and comply with the link existing between the aid provided for and the injury resulting from the adjustment of conditions on the markets;

Whereas account should also be taken of the fact that the holdings of the type concerned are unevenly distributed in the Community and are relatively concentrated in the Member States where budget funds and, consequently, the possibilities for granting transitional aids are much more restricted than in other Member States; whereas the cohesion sought by the Single European Act therefore requires, in the latter cases in particular, a Community contribution towards the income aids granted to persons practising farming as their main occupation; whereas the level of the community contribution must be varied according to the requirements and the financial resources available in the various regions of the Community;

Whereas the Community contribution is to be financed from appropriations entered in a special chapter of the general budget of the Community; whereas, in order to facilitate the management and financial execution of the system, the financing rules should be those applying to the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section under 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 2048/88 (5),

HAS ADOPTED THIS REGULATION:

Article 1

1. To assist, in their efforts to adjust family agricultural holdings which have been weakened in the context of the reform of the common agricultural policy by the new conditions obtaining on the markets and which are not able through their own efforts to carry out successfully the process of adaptation owing to their economic and structural situation, a Community system is hereby instituted whereby the Member States may be authorized to grant transitional aids to agricultural income, hereinafter referred to as 'income aids'.

Articles 92, 93 and 94 of the Treaty shall not apply to the aids granted in conformity with this Regulation.

2. Income aids may contribute in particular to:

(a) safeguarding income at fair levels during a process of adaptation which may affect the structure, organization or management of agricultural holdings;

(1) OJ No C 236, 2. 9. 1987, p. 4, and OJ No C 180, 9. 7. 1988, p. 9.
(2) OJ No C 49, 29. 2. 1988, p. 97, and OJ No C 290, 14. 11. 1988, p. 161.
(3) OJ No C 319, 30. 11. 1987, p. 32.
(4) OJ No L 94, 28. 4. 1970, p. 13.
(5) OJ No L 185, 15. 7. 1988, p. 1.

(b) alleviating the impact, in terms of income, arising from the financial obligations of agricultural holdings;

(c) supporting the level of agricultural income during efforts to diversify the farmer's activity outside agriculture.

They must not stimulate agricultural production nor bring about distortion of competition.

3. The Community shall contribute towards the financing of the income aids on the terms laid down in Title II.

TITLE I

The system of income aids

Article 2

Income aids may only be authorized within the scope of this system where:

(a) they form part of a programme drawn up by the Member State concerned in accordance with Article 3;

(b) the recipients meet the conditions laid down in Article 4 (1);

(c) they do not exceed in amount the level determined in accordance with Article 5; and

(d) they are granted in compliance with the special detailed rules set out in Article 6.

Article 3

1. Programmes of agricultural income aids (hereinafter referred to as 'PAIA') shall constitute the general framework laid down by the Member State concerned for granting income aids at national, regional and/or sectoral level.

2. Each PAIA shall include at least the following details:

(a) the precise objectives sought by the introduction of the PAIA;

(b) the geographical area and, where appropriate, the agricultural sector or sectors concerned by the PAIA;

(c) definition of the potential recipients of the income aid in compliance with the conditions laid down in Article 4;

(d) detailed rules for granting the aid in compliance with the conditions laid down in Articles 5 and 6, with proof of the injury referred to in Article 5, as intended to serve as a basis for the granting of the aid;

(e) the maximum overall annual amount of estimated expenditure resulting from the application of the PAIA, with details of the amount likely to qualify for a Community contribution pursuant to Articles 8 and 9.

3. Where the geographical scope of the PAIA is not the national territory, it shall be delimited in terms of the administrative regions of the Member State concerned. However, the PAIA may relate only partially to one or more administrative regions where the socio-structural characteristics of agricultural holdings are broadly homogeneous in the planned area of application.

Article 4

1. The farmers and members of their families working on the holding may qualify for income aid only where the overall family income amounts, per work unit, to less than a threshold determined by the Member State concerned, having regard to the national provisions in force for similar measures and the objectives and detailed rules on granting the aid laid down in the PAIA in question.

That threshold may in no case exceed 70 % of the national gross domestic product or 90 % of the regional gross domestic product per member of the working population.

'Overall family income' means the income of the farmer and of those members of his family working on the holding, including any non-agricultural resources.

2. The agricultural income of the holding to be taken into account shall be established:

— on the basis of an indicator consistent with the concept of gross domestic product referred to in paragraph 1, second subparagraph,

— by means of accounting data or other objective criteria relating to the holding, to be determined in accordance with the procedure laid down in Article 13.

Article 5

1. The level of income aid shall be determined on the basis of the injury arising for potential recipients from the adjustment of the markets in the context of the reform of the common agricultural policy and of the adjustment of the common organizations of the markets; it shall be established, as the Member State concerned so chooses, on a flat-rate or individual basis.

2. Where the level of the aid is established on a flat-rate basis for the PAIA application area and/or sector:

(a) the injury referred to in paragraph 1 shall, in compliance with the detailed rules to be adopted in accordance with the procedure provided for in Article 13, be established overall on the basis of a multi-annual reference period for the holdings in the application area and/or sector in question, expressed as a total amount;

(b) the aid granted to individual recipients in the application area and/or sector may not exceed overall the amount referred to in (a); the amount of aid may be differentiated on the basis of objective data relating to the holding (utilized agricultural area, standard gross margin, etc.).

3. Where the level of the aid is established individually, it may at most cover the injury referred to in paragraph 1, suffered by the holding concerned. That injury shall be established on the basis of a multi-annual reference period and in compliance with detailed rules to be determined in accordance with the procedure laid down in Article 13.

Article 6

1. The detailed rules for granting the income aids shall be governed by the following special conditions:

(a) the aids may not be granted on the basis of the prices and/or quantity of production of the holding concerned;

(b) the aids may be granted to an individual recipient only degressively and for no more than a maximum of five years from the first payment;

(c) the Member States shall exclude from income aids households where farming accounts for a negligible part of the income.

2. In order to prevent distortion of competition, maximum amounts of aid per work unit, expressed as a percentage of the average regional or national income shall be fixed in accordance with the procedure laid down in Article 13.

In no case may aid exceed ECU 2 500 per year per work unit on the holding concerned.

3. In order to achieve the objectives in Article 1 (2) (a) and (b),

(a) the amount of the aid to be granted to individual recipients may be capitalized;

(b) for the application of the threshold referred to in Article 4 (1) and for the purpose of applying Article 5, the net agricultural income of the holding may be used, determined by means of accounting figures.

The detailed rules for the application of this paragraph shall be determined in accordance with the procedure laid down in Article 13.

Article 7

1. Where a Member State plans to introduce or amend a PAIA, it shall notify the Commission of the draft programme or the proposed amendment. The notification must contain the information required for assessing whether the conditions laid down in this Regulation are met.

At the request of the Commission, the Member State concerned shall provide additional information for assessment purposes.

2. Member States may not implement the planned measure before the Commission has approved the PAIA concerned.

When making its assessment the Commission shall ensure that the planned measures are in accordance with the provisions of this Regulation, having regard in particular to the objectives referred to in the second subparagraph of Article 1 (2).

3. Within three months from the date of receipt of a draft PAIA or amendments thereto, the Commission, having consulted the Committee provided for in Article 13, shall decide whether to approve the draft PAIA or the amendments thereto provided that all the particulars set out in Article 3 and, where appropriate, the additional information referred to in the second subparagraph of paragraph 1, are provided.

4. The first subparagraph of paragraph 2 shall be without prejudice to the Member State concerned implementing, in the framework of a PAIA approved in accordance with paragraph 3, income aid measures which are more restrictive than those laid down in the PAIA in question as regards in particular:

— the geographical or sectoral scope,

— the detailed rules for the grant in accordance with Articles 4 and 5,

and

— the duration of application

of income aids actually granted.

5. In accordance with detailed rules to be determined in accordance with the procedure laid down in Article 13, the Member States shall notify the Commission periodically of progress in approved PAIAs.

TITLE II

Community financing of income aids

Article 8

1. Income aids which are part of a PAIA approved in accordance with Article 7 (3) and which, in addition to meeting the conditions set out in Articles 4, 5 and 6, also relate to holdings where the farmer or a member of his family working on the holding prossesses adequate occupational skill and competence and practises farming as his main occupation shall be eligible for Community financing.

For the purposes of applying this condition, Article 2 (5) and (6) of Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures [1], as last amended by Regulation (EEC) No 1137/88 [2], shall apply.

2. However, only that proportion of income aid shall be eligible for Community financing which:

(a) is granted in respect of not more than two work units per holding and amounts to not more than ECU 1 000 per work unit per year; and

(b) constitutes, in the second, third, fourth and fifth years of its grant to individual recipients, 85 %, 70 %, 55 % and 40 % respectively of the eligible income aid granted to them in the first year in accordance with Articles 4 and 5.

3. To ensure that the appropriations entered in the Community budget are not exceeded by expenditure, additional conditions relating to the eligibility of PAIAs may be laid down in accordance with the procedure laid down in Article 13, the EAGGF Committee having been consulted on the financial aspects.

[1] OJ No L 93, 30. 3. 1985, p. 1.
[2] OJ No L 108, 29. 4. 1988, p. 1.

Article 9

1. The Community contribution to the financing of the income aids shall amount to:

— 70 % of the eligible amount where the holding concerned is located in a region covered by objective 1 in Article 1 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments (1),

— 25 % of the eligible amount in other cases.

2. However, in accordance with the procedure laid down in Article 43 (2) of the Treaty, and intermediate rate of Community contribution may be fixed for certain areas covered by objective 5 (b) in Article 1 of Regulation (EEC) No 2052/88.

Article 10

The Community contribution provided for in Articles 8 and 9 shall be financed from appropriations entered in a special chapter of the general budget of the Communities. The financing rules shall be those applying to the EAGGF Guarantee Section.

TITLE III

General provisions

Article 11

Without prejudice to other specific or sectoral Community provisions, agricultural income aids shall be prohibited if the conditions or rules governing the granting thereof differ from those laid down in this Regulation, and in particular if the amount of such aids is determined by reference to prices, quantities or agricultural products or inputs.

Article 92, with the exception of paragraph 3 thereof, and Article 93 of the Treaty shall apply to such aids.

Article 12

Detailed rules for the application of this Regulation and, if need be, transitional measures relating to Article 11, shall be adopted in accordance with the procedure laid down in Article 13.

Article 13

1. A Management Committee for Agricultural Income Aids, hereinafter referred to as the 'Committee', shall be set up comprising representatives from the Member States and chaired by a Commission representative.

2. Within the Committee the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

3. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

4. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. It shall require a majority of 54 votes.

5. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time-limit referred to in the previous paragraph.

6. The Committee may examine any other matter referred to it by its chairman, either on his own initiative or at the request of the representative of a Member State.

Article 14

1. At the end of a three-year period starting from the entry into force of this Regulation, the Commission shall submit to the European Parliament and to the Council a report on the operation of the system provided for in this Regulation, on the basis of the information provided by the Member States.

2. Having examined that report, the Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, may decide, in the light of experience and of the development of economic conditions and agricultural incomes, to amend this system where necessary.

Article 15

This Regulation shall enter into force on 1 April 1989.

It shall apply until 31 March 1993.

No PAIA may be approved after that date pursuant to Article 7 and no income aid provided for in a PAIA approved before that date may be granted to individual recipients after 31 March 1998.

(1) OJ No L 185, 15. 7. 1988, p. 9.

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

Done at Brussels, 21 March 1989.

For the Council

The President

C. ROMERO HERRERA