COMMISSION REGULATION (EEC) No 2491/93

of 9 September 1993

laying down detailed rules for the application of Council Regulation (EEC) No 3950/92 as regards Community financing of the programme for restructuring milk production

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector [1], as last amended by Regulation (EEC) No 1560/93 [2], and in particular the third paragraph of Article 8 and Article 11 thereof,

Whereas the third paragraph of Article 8 of Regulation (EEC) No 3950/92 provides for the implementation at national level of a restructuring programme for milk production for which Community financing is to be granted; whereas the conditions under which the financing may be granted should be specified; whereas in particular it appears advisable to exclude from such financing certain reference quantities granted to producers on a priority basis and the release of which in return for compensation is not justified in the light of the aims pursued by the legislation in question; whereas, however, quantities obtained before 1 April 1987 need not be so excluded;

Whereas it is necessary to determine the maximum amount of the Community compensation for the abandonment of milk production; whereas, however, if may prove necessary in a given Member State to reduce or raise the level of compensation to take account of different local conditions; whereas Member States should therefore be authorized in certain conditions to supplement the Community financing; whereas it should also be possible for the Commission to increase the maximum amount of the compensation at the request of a Member State, and to deal with any exceptional situations which may arise there; whereas such increase may in no case result in the amounts as allocated in the third paragraph of Article 8 of Regulation (EEC) No 3950/92 being exceeded;

Whereas Member States must ensure that the conditions for the grant of compensation are complied with, and in particular that milk production is definitively abandoned, and that compensation unduly paid out is recovered; whereas for this purpose all applications must be the subject of administrative checks, and physical on-site inspections must be carried out;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. Within the limits of the Community financing set in the third paragraph of Article 8 of Regulation (EEC) No 3950/92, Member States are hereby authorized to pay, at the request of the producers concerned, compensation up to a maximum of ECU 50 per 100 kilogrammes of the reference quantity released, in accordance with the first indent of the first paragraph of the said Article 8.

The following, however, shall not be eligible for the payment of compensation:

— reference quantities given up in 1993/94,

— reference quantities obtained from 1 April 1987 onwards pursuant to Article 3 (1) and (2) and/or Article 4 (1) (b) and (c) of Council Regulation (EEC) No 857/84 [3],

— reference quantities obtained pursuant to Articles 3b and 3c of Regulation (EEC) No 857/84 and/or Article 2 (4) (c) of Council Regulation (EEC) No 1637/91 [4] and/or the second and third indents of Article 3 (2) of Regulation (EEC) No 3950/92.

The amount of the compensation shall be converted into national currency using the agricultural conversion rate in force on 1 January 1994.

Member States may:

(a) pay compensation at a rate lower than ECU 50 per 100 kilogrammes and use the balance to release additional quantities;

(b) Community financing by increasing the amount of the compensation.

The amount of the increase may be adjusted by each Member State within its territory to take account of differing local conditions as regards:

[1] OJ No L 405, 31. 12. 1992, p. 1.
[2] OJ No L 154, 25. 6. 1993, p. 30.
[3] OJ No L 90, 1. 4. 1984, p. 13; repealed by Regulation (EEC) No 3950/92.
[4] OJ No L 150, 15. 6. 1991, p. 30.

— the development of milk production,
— the level of deliveries per producer,
— the need not to impede the restructuring of milk production,
— the opportunities of converting to other productive activities,
— the siting of milk production in one of the areas as defined in Article 3 (3), (4) and (5) of Council Directive 75/268/EEC (1).

2. Notwithstanding the first subparagraph of paragraph 1 and in order to deal with exceptional situations in a Member State, the Commission may at the duly reasoned request of the Member State concerned increase the maximum amount of compensation eligible for Community financing.

Article 2

Compensation shall not be paid until the producer has provided proof to the satisfaction of the competent authority that he has definitively abandoned milk production.

Member States shall take the control and surveillance measures necessary to ensure that the requirement of definitive abandonment and all other conditions linked to the grant of compensation are complied with. For this purpose they shall, in particular, perform administrative checks on all applications and carry out physical on-site inspections.

Article 3

Member States shall take the necessary steps to recover compensation already paid if the undertakings entered into have not been complied with. Amounts wrongly paid shall be repaid with interest calculated on the basis of the period which has elapsed between payment and reimbursement by the beneficiary. The interest rate may not be lower than the reference rate referred to in the Annex, as applied in the Member State concerned on the day of reimbursement, plus one percentage point.

Member States shall inform the Commission of measures adopted to ensure that the conditions for the grant of compensation are complied with and shall notify it every six months starting on 1 April 1994 of the status of relevant administrative and legal procedures.

Amounts recovered along with interest payments shall be paid to the disbursing agencies or departments and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund, Guarantee Section, without prejudice to Article 7 of Council Regulation (EEC) No 595/91 (2).

Article 4

Member States shall forward to the Commission:

— before 1 January 1994, the detailed rules which they have adopted, in particular the rules for submitting and accepting applications, the amount of the compensation and, where applicable, the amount of the additional payment,
— before 1 April 1994,
  — the number of applications accepted according to the size of the reference quantities concerned, the reference quantities released per region and the quantities intended for producers as referred to in the first indent of the second subparagraph of Article 3 (2) of Regulation (EEC) No 3950/92,
  — an evaluation report on the results of the programme, indicating the consequences for the regional development of milk production structures and, if possible, the reasons for which producers have participated in the programme.

Article 5

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

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

Done at Brussels, 9 September 1993.

For the Commission
René STEICHEN
Member of the Commission

(1) OJ No L 128, 19. 5. 1975, p. 1.

(2) OJ No L 67, 14. 3. 1991, p. 11.

ANNEX

Reference interest rate referred to in Article 3

1. *Belgium :*
   Brussels three-month interbank borrowing offered rate
2. *Denmark :*
   Twelve-month treasury bill interest rate
3. *Germany :*
   Frankfurt three-month interbank borrowing offered rate
4. *Greece :*
   Three-month treasury bill interest rate
5. *France :*
   Paris three-month interbank borrowing offered rate
6. *Spain :*
   Madrid three-month interbank borrowing offered rate
7. *Ireland :*
   Dublin three-month interbank borrowing offered rate
8. *Italy :*
   Three-month treasury bill interest rate
9. *Luxembourg :*
   Three-month interbank rate
10. *Netherlands :*
    Amsterdam three-month interbank borrowing offered rate
11. *Portugal :*
    Lisbon three-month interbank borrowing offered rate
12. *United Kingdom :*
    London three-month interbank borrowing offered rate