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COMMISSION REGULATION (EC) No 1727/1999

of 28 July 1999

laying down certain detailed rules for the application of Council Regulation (EEC) No 2158/92 on protection of the Community's forests against fire

(OJ L 203, 3.8.1999, p. 41)

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COMMISSION REGULATION (EC) No 1727/1999

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laying down certain detailed rules for the application of Council Regulation (EEC) No 2158/92 on protection of the Community's forests against fire

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the 'Meaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2158/92 of 23 July 1992 on protection of the Community's forests against fire [1], as amended by Regulation (EC) No 308/97 [2], and in particular Article 4 (4) thereof,

(1) Whereas Regulation (EEC) No 2158/92 provides for a financial contribution from the Community to measures to improve the protection of forests against fire;

(2) Whereas Article 4(3) of that Regulation provides that Community financing is to be granted primarily for forest-fire protection programmes submitted by the Member States;

(3) Whereas, in the interests of effectiveness and in order to simplify and rationalise procedures at national and Community level, the various measures for which Community assistance is requested should be brought together in an annual national plan for each Member State;

(4) Whereas detailed rules should be adopted on how aid applications under the national programmes should be presented and the information they must contain in order to expedite examination thereof;

(5) Whereas a system of advance payments of Community assistance should be introduced to assist Member States in the proper financial management of their national programme;

(6) Whereas applications submitted to the Commission by the Member States for the payment of advances and balances under the national programme should contain certain information to help establish the regularity of expenditure;

(7) Whereas the Commission should be informed that the measures are being implemented in accordance with the conditions and within the time limit laid down in the decision granting aid;

(8) Whereas the Member States are required to adopt the provisions necessary to ensure that effective checks are carried out on the implementation of measures under the national programme;

(9) Whereas Article 8 of Regulation (EEC) No 2158/92 and Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests [3] require the Member States to ascertain the effective and regular nature of the operations financed by the Community and to recover sums lost as a result of irregularities or negligence; whereas such sums represent unjustified expenditure from the Community budget and must therefore be reimbursed to the Community;

(10) Whereas, if the Commission's checks pursuant to Article 8 of Regulation (EEC) No 2158/92 reveal an irregularity, the Member State should have the opportunity to express its opinion on the-situation noted; whereas, where the irregularity is confirmed and the sums concerned represent unjustified expenditure from the Community budget, they should be reimbursed to the Community;

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(1) OJ L 217, 31.7.1992, p. 3.
(2) OJ L 51, 21.2.1997, p. 11.
(3) OJ L 312, 23.12.1995, p. 1.

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(11) Whereas Commission Regulation (EEC) No 1170/93 [1] as amended by Regulation (EC) No 1460/98 [2], should therefore be repealed;

(12) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Standing Forestry Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The programmes provided for in Article 4 of Regulation (EEC) No 2158/92 shall' be drawn up each year at national level. National programmes shall cover all the applications for assistance submitted under the aforementioned Article 4. They shall contain the information and supporting documents indicated in Annex I to this Regulation and relate to the information specified in Article 2. The Member States shall forward their programmes to the Commission in duplicate, in the form indicated in Annex I.

2. National programmes as referred to in paragraph 1 shall run for not more than three years from the date of notification of the Commission Decision provided for in Article 6 of Regulation (EEC) No 2158/92. They may not be extended.

Article 2

Programmes as referred to in Article l shall comprise:

(a) a schedule of the supporting documents to be provided by beneficiaries; 'supporting documents' means any document drawn up in accordance either with the laws or regulations of the Member State concerned, or with measures adopted by the competent authority, which afford evidence that the conditions attached to each individual application have been met. The schedule shall give the term applied to each document and the provisions or measures under which it is drawn up and a brief description of the content of such documents;

(b) specimens of the forms on which beneficiaries are to submit their applications for payment. Such forms must include at least a summary of the expenditure incurred and a comparative table giving a qualitative and quantitative description of the measures provided for and those implemented;

(c) a description of the checking and management methods set up to ensure the effective implementation of measures under the programme, pursuant to Article 8 of Regulation (EEC) No 2158/92.

Member States shall also notify subsequent updates of the documentation referred to in the first paragraph.

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Article 2a

1. The competent bodies designated by the Member States under Article 14 of Regulation (EC) No 2152/2003 of the European Parliament and of the Council [3] in order to manage the activities included in the approved national programmes shall comply with the rules laid down in the Council Regulation (EC, Euratom) No 1605/2002 [4] and Commission Regulation (EC, Euratom) No 2342/2002 [5] as well as with the provisions laid down in the present Regulation.

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[1] OJ L 118, 14.5.1993, p. 23.
[2] OJ L 193, 9.7.1998, p. 20.
[3] OJ L 324, 11.12.2003, p. 1.
[4] OJ L 248, 16.9.2002, p. 1.
[5] OJ L 357, 31.12.2002, p. 1.

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2. In particular, the bodies referred to in paragraph 1, hereinafter referred to as the 'competent bodies', shall meet at least the following criteria:

(a) they shall be national public-sector bodies or private-law entities with a public-service mission, provided that they are governed by the law of one of the Member States;

(b) they shall offer adequate financial guarantees, issued preferably by a public authority, in particular as regards full recovery of amounts due to the Commission;

(c) they shall operate according to the requirements of sound financial management;

(d) they shall ensure the transparency of the operations carried out in accordance with Article 56(1)(a) to (e) of Regulation (EC, Euratom) No 1605/2002.

3. In addition to meeting the criteria set out in paragraph 2 the private-law entities referred to in point (a) of that paragraph shall provide proof of the following:

(a) their technical and professional capacity, on the basis of documentary evidence of the educational and professional qualifications of the members of their managerial staff;

(b) their economic and financial capacity, on the basis of appropriate statements from banks or evidence of relevant professional risk indemnity insurance or a state guarantee, or balance sheets, or extracts from balance sheets, covering at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the entity is established;

(c) their competence under national law to perform the budget-implementation tasks, as attested by for example documentary evidence of their enrolment in a professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in VAT register;

(d) that they are not in one of the situations listed in Articles 93 and 94 of Regulation (EC) No 1605/2002.

4. The Commission shall conclude an agreement with the competent bodies in conformity with Articles 56 of Regulation (EC, Euratom) No 1605/2002 and Articles 35 and 41 of Regulation (EC, Euratom) No 2342/2002.

5. The competent bodies shall conduct regular checks to ensure that the actions to be financed under Regulation (EC) No 2152/2003 have been implemented correctly. They shall take appropriate measures to prevent irregularities and fraud and if necessary bring prosecutions to recover funds lost, wrongly paid or incorrectly used.

6. The competent bodies shall provide the Commission with any information it requests. The Commission can carry out document and on-the-spot checks into their existence, relevance and proper operation, in accordance with the rules of sound financial management.

7. The competent bodies shall be the intermediary to whom the Community contribution is paid, and where the accounts and records of the receipt and payment of that contribution in support of the national programme are held, including all invoices and documents of a similar probative value to support the direct and indirect costs of the programme.

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Article 3

1. Competent authorities may apply for an advance of up to 30 % on the Community assistance to the national programme not earlier than 1 January of the year following the date of notification of the Commission Decision.

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2. Member States may apply for a second advance of not more than 30 % once they have furnished proof that 60 % of the first advance for the same programme has been utilised. The second advance may be increased to 50 % if 90 % of the first advance has been spent.

3. The balance shall be paid after the Commission has received and approved the final report, a definitive financial statement and the application requesting final payment for the national programme.

Article 4

1. From 1 July of the year following the date of notification of the Commission Decision approving the programme, the competent authorities shall forward six-monthly statements of the payments made to beneficiaries in accordance with Annex II, and accompanied by a statement describing the state of progress of the work.

2. The competent authorities must submit applications for the payment of advances and balances for the national programme to the Commission, in duplicate, in accordance with Annex III.

Article 5

1. If a Member State recovers any amounts lost through irregularities or negligence, it shall reimburse them to the Community.

2. Should the Commission, within four years following payment of the balance, note any irregularity in an operation financed by the Community where the amount concerned has not been reimbursed to the Community under paragraph 1, it shall inform the Member State thereof and give it an opportunity to comment.

3. If, having examined the situation and considered any comments from the Member State; the Commission confirms the irregularity, the Member State shall reimburse the amounts concerned.

Article 6

Regulation (EEC) No 1170/93 is hereby repealed.

However, it shall continue to apply to aid applications submitted before 1 November 1998.

Article 7

This Regulation shall enter into force on the third 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.

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ANNEX I

Presentation of programmes

Information on the national programme for 200..

1. Contact of the competent authority: (name, address, telephone and fax numbers, e-mail address of the contact person/body)
2. Description of the programme and location of the planned measures
3. Fire-risks zones concerned (within the meaning of Article 2 of Regulation (EEC) No 2158/92)
4. Contribution of the programme to the implementation of the forest-fire protection plan or plans (within the meaning of Article 3 of Regulation (EEC) No 2158/92) for the zones concerned
5. Duration of the programme, starting and closing dates for implementation of the programme and provisional scheduling of implementation
6. Total cost of the programme and aid applied for (percentage of total cost)
7. Breakdown of costs by measure (*complete Table 1*)
8. Description of the different applications included in the national programme (*complete Table 2, using one form per applicant*) and summary of the applications (*complete Table 3*)
9. Financial programming of the national programme (*complete Table 4*)
10. Confirmation that work will not commence before the programme has been submitted: No/Yes (delete as appropriate)
11. Body to which aid is to be paid and bank details
12. Schedule of the supporting documents to be provided by beneficiaries; specimens of the forms on which beneficiaries are to submit their applications for payment; description of the checking and management methods put in place to ensure the effective implementation of measures under the programme
13. Confirmation that no applications under the programme will be submitted to other Community Funds

Date Signature and stamp

National programme ..... *200 . .*

Table 1: Breakdown of costs by measure

Type of measure	Units	Quantity	Total cost	Non-Community participation				Assistance requested
				Public sector contribution			Private sector contribution	
				Member State	Region	Other public funds		
1. *Identification of the causes of forest fires and determination of means of combating them*								
1.1. Studies to identify the causes of fire and the background thereto								
1.2. Studies to devise proposals for schemes to eliminate the causes and background								
1.3. Campaigns to inform and educate the public								
2. *Setting-up or improvement of systems of prevention:*								
2.1. Establishment of protective infrastructures:								
2.1.1. Forest paths								
2.1.2. Tracks								
2.1.3. Water supply points								
2.1.4. Firebreaks, cleared and felled areas								
2.2. Launching of operations to maintain firebreaks and cleared and felled areas								
2.3. Preventive forestry measures								
3. *Setting-up or improvement of monitoring systems:*								
3.1. Fixed facilities								
3.2. Mobile facilities								
3.3. Communications equipment								
4. *Training of highly specialised personnel*								
5. *Analytical studies, pilot projects and demonstration projects relating to new methods, techniques and technologies.*								
Total								

National programme ..... *200 . .*

Table 2: Description of individual applications
(One form per applicant)

1. Application No: Protection plan number [1]: Medium/high-risk area [2] Title:
2. Applicant (name/address)
3. Type of measure concerned and compatibility with the plan
4. Description of measures and breakdown on costs per measure (using the same numbering as in Table 1) example: — *measure No 2.1.1 (forest paths):* quantity: 3 km total cost: EUR xxx — *measure 2.1.3 (water supply points):* quantity: 2 total cost: EUR xxx etc.

5. Location (with map)

6. Total cost of application and aid requested

[1] The number of the plan for the protection of forests against fire approved by the Commission pursuant to Article 3 of Regulation (EEC) No 2158/92.
[2] Delete as appropriate. Specify whether the area covered by the application is in a medium or high fire-risk zone within the meaning of Article 2 of Regulation (EEC) No 2158/92.

National programme ..... *200 . .*

Table 3: Summary of applications under the programme

Application No	Title	Applicant	Total cost	Eligible cost	Assistance requested		Priority [1]	Classification of risk [2]
					EUR	% of the eligible costs		

(1) Priority 1, 2 or 3.

(2) 1 for high-risk area, 2 for medium-risk area, 3 for mixed-risk area.

Table 4: Financial programming of the national programme

	Year n+1 [1]		Year n+2		Year n+3	
	1st half	2nd half	1st half	2nd half	1st half	2nd half
Amount of first advance						
Amount of second advance						
Payment of balance						

(1) The national programme is deemed to have been submitted in year n; the payment of the first advance could therefore be applied for from 1 January in year n + 1.

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ANNEX II

Introductory remarks

Applications for advances and payment, six-monthly statements and progress reports must be submitted in duplicate to:

European Commission
Directorate-General for Agriculture
Unit VI FII 2
Rue de la Loi/Wetstraat 200
B-1049 Brussels

Statement of six-monthly payments made to beneficiaries

Use the form in Table 1.

State of progress of the work

Use the form in Table 2.

National programme ..... *200..*

Table 1: Six-monthly statement for the national programme for 200 . .

Period from 1./ . ./200 . . to 1./ . ./200 . . (period t)

(a)	(b)	(c)	(d)	(e)=(c)+(d)
Total assistance granted	Total advances received to date from the Commission for the 200 . . programme	Total payments made on behalf of the Commission to beneficiaries up to the end of period t-1 (1)	Payments made on behalf of the Commission to beneficiaries during period t (2)	Total payments made on behalf of the Commission to beneficiaries up to the end of period t

(1) Column taken over from the previous statement.
(2) Payment made during the six months indicated in the title.

Table 2: State of progress of work

Period from 1./ . ./200 . . to 1./ . ./200 . .

Application No	Title	Applicant	Implementation (1)	Implementation rate	Remarks

(1) 1: being implemented; 2: completed; 3: abandoned.

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ANNEX III

Application for the first advance payment for national programme . . . approved in 200 . . pursuant to Article 4 of Regulation (EEC) No 2158/92

Number of national programme:

Amount of the advance requested [1]: . . . . . EUR

Bank details:

Name of the bank:

Address of branch/code:

Telephone/fax, telex, e-mail address:

Account No:

Account name:

Done at ..... Date: .....

For the competent authority
(Signature and stamp)

[1] Maximum 30 % of assistance granted to the national programme in the Commission Decision.

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Application for the second advance payment for national programme . . . approved in 200.. pursuant to Article 4 of Regulation (EEC) No 2158/92

Number of national programme:

Amount of the advance requested [1]: . . . . . EUR

Declaration:

The competent authority hereby confirms that:

1. 60 % of the eligible aid for the first instalment has been paid to the beneficiaries on the basis of the supporting documents referred to in Article 2 of Regulation (EC) No 1727/1999/EC
2. the checks have been carried out in accordance with the checking methods notified to the Commission.

Bank details:

Name of the bank:

Address of branch/code:

Telephone/fax, telex, e-mail address:

Account No:

Account name:

Done at ..... Date: .....

For the competent authority
(Signature and stamp)

[1] Not more than 30 % of the aid granted to the national programme in the Commission Decision (may be increased to 50 % if 90 % of the first advance has been spent).

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Certificate for payment of the balance for national programme for ... of 200..

Number of national programme:

Total payments made to date to beneficiaries on behalf of the Commission: ..... EUR

Total payments received from the Commission:..... EUR

Amount of balance requested:

Declaration concerning the balance

The competent authority responsible for implementing the measures adopted pursuant to Regulation (EEC) No 2158/92 on protection of the Community's forests against fire, in accordance with Article 7 of that Regulation, hereby certifies that:

1. the supporting documents indicated in the schedule sent to the Commission pursuant to Article 2 of Regulation (EC) No ... have been checked;
2. the work provided for by the programme commenced on ... at the scheduled site;
3. the overall programme was completed on ... ;
4. the actual costs of the eligible expenditure incurred total EUR ...;
5. the abovementioned costs are broken down by type of measure as specified in the Table, annexed hereto;
6. it has been noted on the spot by ... that the work carried out is as specified in the dossier attached to the application for assistance on which the Commission Decision was based;
7. the amount of recoverable value-added tax included in the declared expenditure is: EUR ... ;
8. Bank details:

   Name of the bank:

   Address of branch/code:

   Telephone/fax, telex, e-mail address:

   Account No:

   Account name:

Done at ..... Date: .....

For the competent authority
(Signature and stamp)

National programme ..... *200 . .*

Comparative table

Type of measure	Units	Planned work		Work done		Remarks
		Quantity	Cost EUR	Quantity	Cost EUR	
1. *Identification of the causes of forest fires and determination of means of combating them:*						
1.1. Studies to identify the causes of fire and the background thereto						
1.2. Studies to devise proposals for schemes to eliminate the causes and background						
1.3. Campaigns to inform and educate the public						
2. *Setting-up or improvement of systems of prevention:*						
2.1. Establishment of protective infrastructures:						
2.1.1. Forest paths						
2.1.2. Tracks						
2.1.3. Water supply points						
2.1.4. Firebreaks, cleared and felled areas						
2.2. Launching of operations to maintain firebreaks and cleared and felled areas						
2.3. Preventive forestry measures						
3. *Setting-up or improvement of monitoring systems:*						
3.1. Fixed facilities						
3.2. Mobile facilities						
3.3. Communications equipment						
4. *Training of highly specialised personnel*						
5. *Analytical studies, pilot projects and demonstration projects relating to new methods, techniques and technologies*						
Total						