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COMMISSION REGULATION (EC) No 1334/2002

of 23 July 2002

laying down detailed rules for the application of Council Regulation (EC) No 1638/98 as regards the work programmes of operators organisations in the olive sector for the marketing years 2002/03 and 2003/04

(OJ L 195, 24.7.2002, p. 16)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EC) No 1965/2002 of 4 November 2002	L 300	4	5.11.2002

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COMMISSION REGULATION (EC) No 1334/2002

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laying down detailed rules for the application of Council Regulation (EC) No 1638/98 as regards the work programmes of operators organisations in the olive sector for the marketing years 2002/03 and 2003/04

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats [1], as amended by Regulation (EC) No 1513/2001 [2], and in particular the second indent of the first subparagraph of Article 4a(3) and Article 4a(4) thereof,

Whereas:

(1) Article 4a(1) of Regulation (EC) No 1638/98 provides that, under the common organisation of the market in oils and fats, in force as from 1 November 2002, Member States producing olive oil may withhold within certain limits a portion of aid, where appropriate intended for olive oil and/or table olive producers, to ensure Community finance of work programmes drawn up by approved operators' organisations. It should be laid down that the work programmes in question cover the marketing years 2002/03 and 2003/04 only, in accordance with Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organisation of the market in oils and fats [3], as last amended by Regulation (EC) No 1513/2001.

(2) To ensure that approved operators' organisations are effective, approval must relate to the various categories of operators having a major impact in the olive oil and/or table olives sectors, while ensuring that those organisations are large enough to obtain economically significant results. Member States should also be able, with respect to local situations, to lay down additional approval criteria to ensure that the approved organisations have sufficient capacity.

(3) To ensure efficient administrative management of the system of approved operators' organisations in the olive sector, the procedures and time limits for the approval of such organisations, the criteria for selecting their work programmes and the arrangements for paying Community funding should be laid down.

(4) To ensure overall consistency between the activities of approved operators' organisations in the olive sector, it is necessary to lay down the types of activities that are eligible for Community funding and the selection criteria for the work programmes. The Member States concerned should, however, be allowed to lay down additional eligibility conditions so as to gear activities more closely to national realities in the olive sector.

(5) To allow work to commence in good time, operators' organisations in the olive sector should be able to receive an advance on the approved Community funding, subject to the lodging of a security under the terms laid down by Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [4], as last amended by Regulation (EC) No 1932/1999 [5].

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[1] OJ L 210, 28.7.1998, p. 32.
[2] OJ L 201, 26.7.2001, p. 4.
[3] OJ 172, 30.9.1966, p. 3025/66.
[4] OJ L 205, 3.8.1985, p. 5.
[5] OJ L 240, 10.9.1999, p. 11.

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(6) For the purposes of proper management of the rules on operators' organisations in the olive sector, the Member States concerned should draw up a control plan and specify a system of penalties for any irregularities committed. Provision should also be made for operators' organisations to notify the results of their work to the national authorities in the Member States concerned and to transmit those results to the Commission.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

Purpose and definitions

1. This Regulation lays down, for the marketing years 2002/03 and 2003/04, detailed rules for the application of Article 4a(1) of Regulation (EC) No 1638/98 as regards the approval of and the work programmes drawn up by producer organisations and associations thereof, interbranch organisations and other operators' organisations in the olive oil and table olives sectors as referred to in that paragraph.

2. For the purposes of this Regulation:

(a) (a) 'operators' organisation in the olive sector' means an organisation or association as referred to in Article 4a(1) of Regulation (EC) No 1638/98;

(b) (b) 'regional area' means an area as defined in the Annex to Commission Regulation (EC) No 2366/98 [1], and the area constituted by the rest of the territory in each producer Member State. In the case of Italy the following are also deemed regional areas:

— Liguria, Piedmont and Valle d'Aosta, or

— Lombardy, Trentino-Alto Adige, Veneto and Friuli-Venezia Giulia, or

— Umbria, Marche and Emilia-Romagna, or

— Basilicata, or

— Sardinia, or

— Abruzzi and Molise.

Article 2

Conditions for the approval of operators' organisations in the olive sector

1. Member States shall approve operators' organisations in the olive sector which undertake to submit to any controls provided for in this Regulation and which meet certain conditions.

2. For the various kinds of operators' organisation in the olive sector, the conditions referred to in paragraph 1 shall be those indicated in points (a), (b), (c) and (d) respectively, whereby the minimum number of members and other minimum size criteria may be increased by the Member State concerned, and those laid down, where applicable, by the competent national authorities as regards operational capacities, available means and controls on operators' organisations in the olive sector.

(a) Producer organisations must be composed exclusively of olive producers who are not members of any other producer organisation approved under this Regulation which has received production aid as referred to in Article 5 of Regulation No 136/66/EEC for the

[1] OJ L 293, 31.10.1998, p. 50.

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year before the preceding marketing year or has lodged a crop declaration for the current marketing year; and

(i) have at least 2 500 member producers or

(ii) account for 2 % of olive producers or of average olive oil or table olive production in the regional areas concerned;

(b) Associations of producer organisations must be composed exclusively of producer organisations approved under point (a) which are not part of another association of producer organisations approved under this Regulation, and

(i) have at least 10 member organisations which are established in several regional areas of the Member State concerned,

(ii) or account for at least 15 % of the average production of olive oil or table olives in that Member State.

(c) Other operators' organisations in the olive sector must be composed exclusively of operators in the olive sector who are not part of another organisation approved under point (c) and, in the year preceding the current marketing year, either generated at least 50 % of their turnover from the processing of olives or the sale of olive oil or table olives, or marketed more than 5 000 tonnes of olive oil or more than 1 000 tonnes of table olives and have at least:

(i) 20 member operators marketing or processing a total quantity greater than the equivalent of 15 000 tonnes of olive oil or 3 000 tonnes of table olives,

(ii) or 15 % of the average production of olive oil or table olives of the Member State concerned.

(d) Interbranch organisations recognised by the Member States in which they conduct their activities within the meaning of Article 4a(2) of Regulation (EC) No 1638/98 and which provide a broad and balanced representation of all economic activities linked to the production and processing of, and trade in, olive oil and/or table olives;

3. Without prejudice to Article 10(1) of this Regulation, operators' organisations in the olive sector and associations thereof approved under Article 20c of Regulation No 136/66/EEC and other operators' organisations in the olive sector recognised by the Member State which submit a work programme in accordance with Article 5 shall be deemed approved under this Regulation where they meet the criteria referred to in paragraphs 1 and 2.

Article 3

Procedure for approving operators' organisations in the olive sector

1. For the purposes of approval, operators' organisations in the olive sector must lodge, by a date to be determined by the Member State but no later than 31 March 2003, an application demonstrating that they meet the conditions laid down in Article 2.

2. During the two months following that in which the full application file is lodged, the operators' organisation in the olive sector shall be approved by the Member State and shall receive an approval number.

3. Approval shall be rejected, suspended or withdrawn immediately if the operators' organisation in the olive sector does not meet the conditions for approval or is being prosecuted by the competent national body for irregularities in respect of this Regulation.

Article 4

Activities eligible for Community funding

1. The activities that are eligible for Community funding under Article 4a of Regulation (EC) No 1638/98 (hereinafter referred to as

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'eligible activities') in the area of market follow-up and administrative management in the olive oil and table olives sectors are:

(a) collecting data on the sector and the market, in accordance with specifications relating to method, geographical representativeness and precision laid down by the competent national authority;

(b) drawing up studies, in particular on subjects linked to the other activities provided for in the work programme of the operators' organisation concerned.

2. Eligible activities in the area of improving the environmental impacts of olive cultivation are:

(a) collective operations to maintain olive groves of high environmental value at risk of abandonment, in conformity with specified conditions, on the basis of objective criteria, by the competent national authority in particular concerning the areas which may be eligible and the area and the minimum number of olive oil producers who must be involved to make the operations in question effective;

(b) developing good agricultural practice in olive growing, based on environmental criteria adapted to local conditions, its dissemination among olive growers and following up its practical application;

(c) practical demonstrations of olive growing techniques geared towards environmental protection and stewardship of the countryside;

(d) adding environmental data to the geographic information system (GIS) referred to in Article 2 of Regulation (EC) No 1638/98.

3. Eligible activities in the area of improving the production quality of olive oil and table olives are:

(a) improving conditions for growing (in particular controlling olive fly), harvesting, delivering and storing olives prior to processing, in accordance with the technical specifications laid down by the competent national authority;

(b) improving conditions for storage and use of the residues of olive oil and table olive production;

(c) technical assistance to the olive oil processing industry on aspects linked to the quality of products;

(d) setting up and improving laboratories for the analysis of virgin olive oils.

4. Eligible activities in the area of traceability, certification and protection of the quality of olive oil and table olives are:

(a) setting up and managing systems allowing products to be traced from the olive grower through to packaging and labelling, in accordance with specifications set out by the competent national authority;

(b) setting up and managing quality certification systems, based on a system of risk analysis and checks on critical points, which is in conformity with technical criteria adopted by the competent national authority;

(c) setting up and managing systems to monitor compliance with norms attesting to the authenticity, quality and marketing of the olive oil and table olives placed on the market, in accordance with the technical specifications laid down by the competent national authority.

5. The following activities shall not be eligible for Community funding under Article 4a of Regulation (EC) No 1638/98:

(a) activities which are in receipt of Community funding other than that provided for in Article 4a of Regulation (EC) No 1638/98;

(b) activities aiming at a direct increase in production or involving a rise in storage or processing capacity;

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(c) activities linked to the purchase or storage of olive oil or table olives or having an impact on their prices;

(d) activities linked to the commercial promotion of olive oil or table olives;

(e) activities linked to scientific research.

6. Member States may adopt additional conditions specifying the eligible activities referred to in paragraphs 1 to 4 of this Article, without rendering the implementation or presentation of activities in these fields impossible.

Article 5

Work programmes of operators' organisations in the olive sector

1. The work programmes eligible for Community funding under Article 4a(1) of Regulation (EC) No 1638/98 shall be composed of activities as referred to in Article 4 of this Regulation and shall be carried out between 1 November 2002 and 31 October 2004.

2. Each operators' organisation in the olive sector approved under this Regulation may lodge an application for Community funding for one single work programme by a date to be determined by the Member State but no later than 31 March 2003.

The application shall consist of the following:

(a) details of the operators' organisation in question;

(b) information on the selection criteria referred to in Article 6(1);

(c) a description and justification of the proposed activities, and a timetable;

(d) the planned expenditure, broken down by activity and by area of activities as referred to in Article 4, separately listing the overheads, which may not exceed 2 % of the total, and the other main types of cost;

(e) the financing plan by area of activities referred to in Article 4, indicating in particular the Community funding applied for and, where appropriate, the financial contributions from operators and the national contribution;

(f) the description of the quantitative and qualitative indicators of efficiency allowing the ex-post assessment of the programme;

(g) proof that a bank security for an amount equivalent to at least 5 % of the requested Community funding has been lodged;

(h) where appropriate, an application for an advance under Article 8;

(i) a declaration from the organisation concerned to the effect that no other Community funding has been granted for the programme activities;

(j) for interbranch organisations and associations of producer organisations, details of the operators' organisations responsible for the actual implementation of the subcontracted activities in their programmes;

(k) for operators' organisations in the olive sector forming part of an association of producers or of an interbranch organisation, a statement that the activities provided for in their programmes are not covered by any of another application for Community funding under this Regulation.

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Article 5a

Allocation of Community funding

1. The maximum Community funding for the 2002/2003 and 2003/2004 marketing years that under Article 2 of Regulation (EC) No 1873/2002 may be allocated to the eligible activities of operators' organisations in the olive sector shall be cumulable in each Member State for

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the purposes of the range of programmes indicated in Article 5 of this Regulation.

2. In each Member State a minimum percentage of the maximum Community funding established in line with Article 2 of Regulation (EC) No 1873/2002 shall be devoted to each field of activity, as follows:

— market follow-up and administrative management in the olive oil and table olive sector: 15 %,

— improving the environmental impact of olive cultivation: 15 %,

— improving the production quality of olive oil and table olives: 15 %,

— traceability, certification and quality protection for olive oil and table olives: 10 %.

3. If the Community funding required for all the programmes approved in a Member State in a particular field of activity accounts for less than the minimum percentage indicated in paragraph 2 the difference between the two amounts shall, subject to compliance with the requirement indicated in Article 3 of Regulation (EC) No 1873/2002, be allocated to the olive oil production aid indicated in Article 5 of Regulation No 136/66/EEC.

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Article 6

Selection of work programmes

1. Member States shall select the work programmes on the basis of the following criteria:

(a) the general quality of the programme and its consistency with the goals and priorities of the olive sector in the area concerned, as laid down by the Member State;

(b) the sufficiency of the financial resources of the operators' organisation concerned for the purposes of implementing the proposed activities;

(c) the extent of the area involved in the work programme;

(d) the relation between the amount of Community funding requested and the volume of olive production sold by the members of the operators' organisation concerned;

(e) the differences in the economic situation of the area involved taken into account in the work programme;

(f) the existence of several areas of activities and the size of the financial contribution from the operators.

Member States shall take account of the distribution of applications among the different types of operators' organisations in the olive sector referred to in Article 2 and of the extent of olive-growing in each area.

2. Member States shall exclude from the selection process any work programmes that are incomplete or contain inaccurate information, or contain one of the ineligible activities referred to in Article 4(5).

3. No later than 31 May 2003, Member States shall approve the work programmes to which they have granted the corresponding national funding. The Member States shall inform the operators' organisations concerned thereof.

Final approval of a work programme may be made subject to the incorporation of amendments judged necessary by the Member State.

Should the proposed work programme not be selected, the Member State shall immediately release the security referred to in Article 5(2)(g).

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Article 7

Amendments to work programmes

Operators organisations in the olive sector may, in accordance with a procedure laid down by the Member State, request that their approved work programme be amended in respect of one of the fields of activity referred to in Article 4, provided that this does not involve any increase in funding.

Requests for amendment shall be accompanied by supporting documents setting out the reasons for and the nature and implications of the proposed changes.

Article 8

Advances

1. An operators' organisation in the olive sector which has lodged an application in accordance with Article 5(2)(h) shall receive, under the conditions referred to in paragraph 2 of this Article, an advance of a maximum 90 % of the Community contribution provided for in the period concerned by the approved work programme.

2. During the month following the approval of the work programme in question, the Member State shall pay to the operators' organisation concerned one-third of the amount referred to in paragraph 1 and, after 16 October 2003, the remaining two-thirds, once it has verified that the first tranche of the advance has actually been spent.

3. The payments referred to in paragraph 2 shall be subject to the lodging of a security by the operators' organisation concerned in accordance with Regulation (EEC) No 2220/85 of an amount equal to 110 % of the advance requested. The main requirement within the meaning of Article 20 of that Regulation is the implementation of the measures listed in the approved work programme.

4. By a date to be determined by the Member State but no later than 31 May 2004, the operators' organisations concerned may lodge an application for release of the security referred to in paragraph 3 up to an amount equal to half the expenditure actually carried out. The Member State shall lay down which supporting documents must accompany this application and check them, and shall release the securities corresponding to the expenditure concerned no later than in the course of the second month following that in which the application is lodged.

Article 9

Payment of Community funding

1. For the purposes of payment of the Community funding under Article 4a of Regulation (EC) No 1638/98 or, where appropriate, the balance thereof, operators' organisations in the olive sector shall lodge, by a date to be determined by the Member State but no later than 31 January 2005, an application with the competent national authority.

The Community funding corresponding to the above applications submitted after that date shall be reduced by an amount equal to 1 % per working day late. Applications submitted after 25 February 2005 shall be inadmissible.

2. To be admissible the applications referred to in paragraph 1 shall be accompanied by

(a) supporting documents proving:

  (i) the expenditure effected in the period concerned;

  (ii) where appropriate, payment of the financial contributions of the operators and the Member State concerned;

(b) a summary report comprising the following:

  (i) a description of the work implemented under the programme, broken down by area of activity as referred to in Article 4;

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(ii) where appropriate, the justification and the financial repercussions of the gaps between forecasts and work actually implemented;

(iii) an evaluation of the results based on the indicators laid down in Article 5(2)(f).

3. In the case of activities completed by 31 October 2004 and for which payment is made after that deadline, the Community funding shall be reduced by 1 % per day late in the first 30 days and by 2 % for each day thereafter.

4. During the three months following the month in which the full application file referred to in paragraph 1 is lodged, and once they have carried out the examination of the documents referred to in paragraph 2 and the checks referred to in Article 10, Member States shall pay the Community funding that is due and release the corresponding security.

Article 10

Checks and penalties

1. Member States shall verify that the conditions for granting Community funding are met, in particular as regards compliance with the approval requirements, implementation of the approved work programmes, the expenditure actually implemented and the financial contribution by the olive operators concerned. To that end, they shall carry out a control plan involving a sample determined on the basis of a risk analysis and comprising at least 30 % of producers organisations in the olive sector and all the other operators' organisations in the olive sector in receipt of Community funding under this Regulation.

2. Member States shall specify or, as appropriate, lay down a system of penalties for irregularities under this Regulation. Those penalties must be effective, proportionate and act as a deterrent and comprise, for the most serious cases, withdrawal of approval and financial penalties of an amount at least double that of the Community funding involved in the irregularity.

3. Under the system of controls referred to in paragraph 1, an individual file shall be opened on each operators' organisation in the olive sector that has been subject to checks. These files shall include proof of the verifications and checks carried out and, where appropriate, an indication of the anomalies found and the penalties applied.

Article 11

Communications from the Member States

1. No later than 31 December 2002 the Member States producing olive oil shall communicate to the Commission the national provisions relating in particular to:

(a) the conditions for approval of the operators' organisations referred to in Article 2(2),

(b) the additional specifications and conditions relating to the eligible activities referred to in Article 4(1), (2), (3), (4) and (6) of this Regulation,

(c) the goals and priorities of the olive sector referred to in Article 6(1)(a),

(d) the arrangements for the system of advances referred to in Article 8 and, where appropriate, the system for paying the national funding,

(e) the control plan and system of penalties referred to in Article 10.

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1a. By 28 February 2003 Member States shall notify the Commission of their decisions for each of the 2002/2003 and 2003/2004 marketing years on the derogation from Article 20d(1) of Regulation No 136/66/EEC for which Article 3 of Regulation (EC) No 1873/2002 provides.

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2. Before 30 June 2003 Member States shall inform the Commission of their decisions for each of the 2002/2003 and 2003/2004 marketing years on the derogation from Article 5(9) of Regulation No 136/66/EEC for which Article 3 of Regulation (EC) No 1873/2002 provides.

Before 30 June 2003 Member States shall send the Commission data on the approved olive sector operators' organisations and work programmes and the features of the latter (to be broken down by type of producer organisation as indicated in Article 2 above and by regional area) and on the funding amounts withheld under Article 4a(1) of Regulation (EC) No 1638/98 for the 2002/2003 and 2003/2004 marketing years (to be broken down by field of activity).

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3. No later than 30 April 2005, Member States shall transmit to the Commission a report on the implementation of this Regulation comprising at least the following:

(a) numbers of programmes funded, recipients, areas, mills, processing facilities and volumes of oil and table olives concerned;

(b) characteristics of the activities developed in each of the areas of activity referred to in Article 4;

(c) any discrepancy between activities planned and activities actually carried out;

(d) a description and evaluation of results, based in particular on the evaluations of the work programmes referred to in the third indent of Article 9(2)(b)(iii);

(e) a description of the controls carried out and the penalties proposed and applied in accordance with Article 10;

(f) expenditure by programme and by area of activity referred to in Article 4, and the Community, national and operators' financial contributions.

Article 12

Entry into force

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

It shall apply from 1 November 2002.

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