COUNCIL REGULATION (EC) No 2060/2004

of 22 November 2004

amending Regulation (EC) No 2702/1999 on measures to provide information on, and to promote, agricultural products in third countries and Regulation (EC) No 2826/2000 on information and promotion actions for agricultural products on the internal market

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 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 European Economic and Social Committee [2],

Having regard to the opinion of the Committee of the Regions,

Whereas:

(1) In the light of experience gained with the implementation of Regulations (EC) No 2702/1999 [3] and No 2826/2000 [4], analysed in the report presented by the Commission to the European Parliament and the Council in April 2004, it is appropriate to revise certain provisions of those Regulations.

(2) Harmonisation of the provisions concerning the submission and selection of proposals, the monitoring of the programmes as well as consultation and technical assistance, applied in the context of Regulations (EC) No 2702/1999 and No 2826/2000, should lead to simplified management of the two regimes; in particular, proposing organisations should be given the possibility of implementing certain parts of the programmes themselves and selecting implementation bodies at a later stage in the procedure.

(3) Fragmentation of financing into small and ineffective programmes should be avoided and a balanced distribution of the available budgetary resources should be ensured, by providing minimum and maximum effective cost limits for programmes submitted.

(4) The possibility of the Commission initiating promotion and information measures in third countries should be extended in cases where such measures have a Community-wide interest or no appropriate measures have been submitted by professional or interprofessional organisations. The Commission should also be given the possibility of initiating, on the internal market, information measures related to Community regimes concerning the quality and labelling of agricultural products and foodstuffs.

(5) In the light of experience gained with the implementation of the degressive contribution from 60 to 40 % in cases of multiannual programmes, the provisions concerning the Community contribution to such programmes should be simplified, while maintaining the level of the Community contribution at 50 % of the effective cost of each programme.

(6) The share of the contribution of the Member State(s) and the proposing organisation(s) should be made more flexible, leaving however a minimum share of compulsory financing to be borne by the proposing organisation.

(7) It is highly important that the materials which are used in information and promotion campaigns are checked as regards their conformity with Community legislation. It is therefore necessary to clarify the existing monitoring obligations of Member States in that respect.

(8) The contributions of the Member State(s) to programmes are made in the context of a specific procedure. Member States should therefore be exempted from the obligation to notify such national contributions as state aid in order to simplify the administrative proceedings concerned, as these contributions should not be considered as state aid within the meaning of Articles 87, 88 and 89 of the Treaty.

(9) Ad hoc working groups of representatives from Member States and/or experts with particular expertise in promotion and publicity matters can usefully advise the Commission in developing the strategy and the implementation measures for the regime. The possibility for consulting such groups should therefore be provided for.

(10) Regulation (EC) No 2702/1999 should continue to apply after 31 December 2004.

---

[1] Opinion delivered on 14 October 2004 (not yet published in the Official Journal).
[2] Opinion delivered on 27 October 2004 (not yet published in the Official Journal).
[3] OJ L 327, 21.12.1999, p. 7.
[4] OJ L 328, 23.12.2000, p. 2.

(11) In order to permit the necessary adaptations for implementing the proposed measures, this Regulation should apply from 1 January 2005.

(12) Regulations (EC) No 2702/1999 and (EC) No 2826/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2702/1999 is hereby amended as follows:

1. in Article 2, point (c) shall be replaced by the following:

'(c) information campaigns, in particular on the Community systems covering protected designations of origin (PDOs), protected geographical indications (PGIs), guaranteed traditional specialities (GTSs) and organic production, as well as other Community regimes concerning quality standards and labelling for agricultural products and foodstuffs, and graphic symbols laid down in the relevant Community legislation;'

2. Article 5 shall be replaced by the following:

'*Article 5*

1. In accordance with the procedure referred to in Article 12(2), the Commission shall draw up every two years a list of the products and markets referred to in Articles 3 and 4 respectively.

However, this list may be amended in the interim, if necessary.

2. In accordance with the procedure referred to in Article 12(2), the Commission may adopt guidelines defining details concerning the strategy to be followed in the proposals for information and promotion campaigns for certain or all of the products referred to in paragraph 1.';

3. Article 7 shall be replaced by the following:

'*Article 7*

1. To carry out the measures referred to in Article 2(a), (b), (c), (d) and (e) and subject to Article 6, the professional and/or interprofessional organisation(s) representing the sector(s) in one or more Member States or at Community level shall draw up proposals for promotion and information programmes lasting no longer than three years.

Member States shall draw up a specification laying down the requirements and criteria for evaluating the programmes.

2. The Member State(s) concerned shall examine the suitability of each proposed programme and its conformity with the provisions of this Regulation, the guidelines adopted under Article 5(2), and the relevant specification. They shall also check that the programme offers value for money.

Once having examined the programme or programmes, the Member State(s) shall draw up a list of programmes within the limit of available funds and shall undertake to contribute to their funding.

3. The Member State(s) shall send the Commission the list of programmes and copies of the programmes.

If the Commission finds that a programme which has been submitted, or certain actions thereof, are not in accordance with Community provisions or do not offer value for money, it shall, within a time limit to be determined in accordance with the procedure referred to in Article 12(2), notify the Member State(s) concerned of the ineligibility of all or part of the programme. Once that time limit has been exceeded, the programme shall be deemed eligible.

The Member State(s) shall take account of any observations made by the Commission and shall send the programmes, revised in agreement with the proposing organisation, to the Commission, within a period of time to be determined in accordance with the procedure referred to in Article 12(2).

4. The Commission shall decide, in accordance with the procedure referred to in Article 12(2), which programmes are accepted and the corresponding budgets. Programmes submitted by more than one Member State or providing for actions in more than one-third of the country shall be given priority.

5. After inviting competitive offers by all appropriate means, the proposing organisation shall select the bodies which shall implement the programmes. However, under certain conditions to be determined in accordance with the procedure referred to in Article 12(2), the proposing organisation may be authorised to implement certain parts of the programme.

6. In accordance with the procedure referred to in Article 12(2), the Commission may set minimum and/or maximum effective cost limits for the programmes to be submitted under this Article. These cost limits may be differentiated according to the nature of the programmes concerned. Criteria in this respect may be defined in accordance with the procedure referred to in Article 12(2).';

4. the following Article shall be inserted:

'*Article 7a*

After the Management Committee referred to in Article 12(1) or, where appropriate, the Regulatory Committees referred to in Council Regulations (EEC) No 2092/91 (*), (EEC) No 2081/92 (**) or (EEC) No 2082/92 (***) have been informed, the Commission shall decide on the following measures:

(a) measures referred to in Article 2(f) and (g) of this Regulation;

(b) measures referred to in Article 2(a), (b), (c), (d) and (e) of this Regulation, where such measures have a Community-wide interest or no appropriate proposals have been submitted under the procedure established in Article 7 of this Regulation;

(c) measures carried out by an international organisation as referred to in Article 6 of this Regulation.

(*) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 1481/2004 (OJ L 272, 20.8.2004, p. 11).

(**) OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 1215/2004 (OJ L 232, 1.7.2004, p. 21).

(***) OJ L 208, 24.7.1992, p. 9. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).';

5. Article 8 shall be amended as follows:

(a) in paragraph 1, the second and third indents shall be replaced by the following:

'— the body or bodies responsible for implementing the measures referred to in Article 7a;'

(b) paragraph 4 shall be replaced by the following:

'4. The Member States concerned shall be responsible for monitoring programmes referred to in Article 7 and for making the payments in respect thereof. The Member States shall ensure that any information or promotion material produced under an accepted programme complies with Community law.';

6. Article 9 shall be amended as follows:

(a) paragraphs 1, 2 and 3 shall be replaced by the following:

'1. Without prejudice to paragraph 4, the Community shall fund the measures referred to in Article 7a in their entirety. The Community shall also fund entirely the cost of technical assistants selected according to the first indent of Article 8(1).

2. The Community's contribution to the programmes referred to in Article 7 shall not exceed 50 % of the real cost of the programmes. In the case of promotion programmes lasting two or three years, the contribution for each year of implementation shall not exceed that maximum limit.

3. The proposing organisation(s) shall fund at least 20 % of the real cost of the programmes referred to in Article 7, the rest of the financing being borne by the Member State(s) concerned, taking into account the Community's contribution referred to in paragraph 2. The respective shares of the Member State(s) and the proposing organisation(s) shall be defined at the time the programme is submitted to the Commission in accordance with Article 7(3). The payments made by Member States and/or the proposing organisations may come from parafiscal charges or compulsory contributions.';

(b) the following paragraph 5 shall be added:

'5. Articles 87, 88 and 89 of the Treaty shall not apply to the financial contributions provided by Member States and to the financial contributions, coming from parafiscal charges or compulsory contributions, provided by Member States and/or proposing organisations, for the programmes subject to Community support within the scope of Article 36 of the Treaty and which the Commission has decided to accept in accordance with Article 7(4).';

7. The following Article shall be inserted:

'*Article 12a*

Before drawing up the list and guidelines referred to in Article 5, or accepting programmes referred to in Article 7, or deciding on measures in accordance with Article 7a, or adopting implementation measures in accordance with Article 11, the Commission may consult:

(a) the Standing Group on Promotion of Agricultural Products of the Advisory Committee on Agricultural Product Health and Safety;

(b) technical ad hoc working groups composed of members of the Management Committee referred to in Article 12(1) and/or experts with particular expertise in promotion and publicity.';

8. in Article 13, the date '31 December 2003' shall be replaced by '31 December 2006';

9. in Article 15, the second paragraph shall be deleted.

Article 2

Regulation (EC) No 2826/2000 is hereby amended as follows:

1. in Article 2, point (c) shall be replaced by the following:

'(c) information campaigns, in particular on the Community systems covering protected designations of origin (PDOs), protected geographical indications (PGIs), guaranteed traditional specialities (GTSs) and organic production, as well as other Community regimes concerning quality standards and labelling for agricultural products and foodstuffs, and the graphic symbols laid down in the relevant Community legislation, including the graphic symbol for extremely remote regions;'

2. in Article 4, paragraph 2 shall be deleted;

3. in Article 5, paragraph 2 shall be deleted;

4. Article 6 shall be replaced by the following:

'*Article 6*

1. To carry out the measures referred to in Article 2(a), (b), (c) and (d) and in accordance with the guidelines referred to in Article 5, the professional and/or interprofessional organisation(s) representing the sector(s) in one or more Member States or at Community level shall draw up proposals for promotion and information programmes lasting no longer than three years.

Member States shall draw up a specification laying down the requirements and criteria for evaluating the programmes.

2. The Member State(s) concerned shall examine the suitability of each proposed programme and its conformity with the provisions of this Regulation, the guidelines referred to in Article 5 and the relevant specification. They shall also check that the programme offers value for money.

Once having examined the programme or programmes, the Member State(s) shall draw up a list of programmes within the limit of available funds and shall undertake to contribute to their funding.

3. The Member State(s) shall send the Commission the list of programmes and copies of the programmes.

If the Commission finds that a programme which has been submitted, or certain actions thereof, are not in accordance with Community provisions or with the guidelines referred to in Article 5, or do not offer value for money, it shall, within a time limit to be determined in accordance with the procedure referred to in Article 13(2), notify the Member State(s) concerned of the ineligibility of all or part of the programme. Once that time limit has been exceeded, the programme shall be deemed eligible.

The Member State(s) shall take account of any observations made by the Commission and shall send the programmes, revised in agreement with the proposing organisation, to the Commission, within a period of time to be determined in accordance with the procedure referred to in Article 13(2).

4. The Commission shall decide, in accordance with the procedure referred to in Article 13(2), which programmes are accepted and the corresponding budgets. Programmes submitted by more than one Member State or providing for actions in more than one Member State shall be given priority.

5. After inviting competitive offers by all appropriate means, the proposing organisation shall select the bodies which shall implement the programmes. However, under certain conditions to be determined in accordance with the procedure referred to in Article 13(2), the proposing organisation may be authorised to implement certain parts of the programme.

6. In accordance with the procedure referred to in Article 13(2), the Commission may set minimum and/or maximum effective cost limits for the programmes to be submitted under this Article. These cost limits may be differentiated according to the nature of the programmes concerned. Criteria in this respect may be defined in accordance with the procedure referred to in Article 13(2).';

5. Article 7 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

'3. For the purposes of the Commission's examination of the programmes, Article 6(3) and (4) shall apply.';

(b) the following paragraph 4 shall be added:

'4. In accordance with the procedure referred to in Article 13(2), the Commission may set minimum and/or maximum effective cost limits for the programmes submitted under this Article. These cost limits may be differentiated according to the nature of the programmes concerned. Criteria in this respect may be defined in accordance with the procedure referred to in Article 13(2).';

6. the following Article shall be inserted:

'*Article 7a*

After the Management Committee referred to in Article 13(1) or, where appropriate, the Regulatory Committees referred to in Regulations (EEC) No 2092/91 (*), (EEC) No 2081/92 (**) or (EEC) No 2082/92 (***) have been informed, the Commission shall decide on the following measures:

(a) measures referred to in Article 2(e) of this Regulation;

(b) measures referred to in Article 2(b), (c) and (d) of this Regulation, where such measures have a Community-wide interest or no appropriate proposals have been submitted under the procedures established in Articles 6 or 7 of this Regulation.

(*) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 1481/2004 (OJ L 272, 20.8.2004, p. 11).

(**) OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 1215/2004 (OJ L 232, 1.7.2004, p. 21).

(***) OJ L 208, 24.7.1992, p. 9. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).';

7. Article 8 shall be replaced by the following:

'*Article 8*

The Commission shall, on the basis of an open or restricted invitation to tender, choose:

(a) any technical assistance needed to evaluate the proposed programmes, including the proposed implementing bodies;

(b) the body or bodies responsible for implementing the measures referred to in Article 7a.';

8. Article 9 shall be amended as follows:

(a) paragraphs 1, 2 and 3 shall be replaced by the following:

'1. The Community shall fund the measures referred to in Article 7a in their entirety. The Community shall also fund entirely the cost of technical assistants selected according to Article 8(a).

2. The Community's contribution to the programmes referred to in Articles 6 and 7 shall not exceed 50 % of the real cost of the programmes. In the case of promotion programmes lasting two or three years, the contribution for each year of implementation shall not exceed that maximum limit.

3. The proposing organisation(s) shall fund at least 20 % of the real cost of the programmes referred to in Article 6, the rest of the financing being borne by the Member State(s) concerned, taking into account the Community's contribution referred to in paragraph 2. The respective shares of the Member State(s) and proposing organisation(s) shall be defined at the time the programme is submitted to the Commission in accordance with Article 6(3). The payments made by Member States and/or the proposing organisations may come from parafiscal charges or compulsory contributions.';

(b) the following paragraph 5 shall be added:

'5. Articles 87, 88 and 89 of the Treaty shall not apply to the financial contributions provided by Member States and to the financial contributions, coming from parafiscal charges or compulsory contributions, provided by Member States and/or proposing organisations, for the programmes subject to Community support within the scope of Article 36 of the Treaty and which the Commission has decided to accept in accordance with Article 6(4) or Article 7(3).';

9. in Article 10, paragraph 2 shall be replaced by the following:

'2. A monitoring group, comprising representatives of the Commission, the Member States concerned and the proposing organisations concerned, shall supervise the proper conduct of the programmes referred to in Articles 6 and 7.

3. The Member States concerned shall be responsible for monitoring programmes referred to in Articles 6 and 7 and for making the payments in respect thereof. The Member States shall ensure that any information or promotion material produced under an accepted programme complies with Community law.';

10. The following Article shall be inserted:

'*Article 13a*

Before drawing up the list referred to in Article 4, or laying down the guidelines referred to in Article 5, or approving programmes referred to in Articles 6 and 7, or deciding on measures in accordance with Article 7a, or taking implementation measures in accordance with Article 12, the Commission may consult:

(a) the Standing Group on Promotion of Agricultural Products of the Advisory Committee on Agricultural Product Health and Safety;

(b) technical ad hoc working groups composed of members of the Management Committee referred to in Article 13(1), and/or experts with particular expertise in promotion and publicity matters.';

11. Article 14 shall be replaced by the following:

'*Article 14*

Before 31 December 2006, the Commission shall present to the European Parliament and the Council a report on the application of this Regulation, together with any appropriate proposals.'

Article 3

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

It shall apply from 1 January 2005.

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

Done at Brussels, 22 November 2004.

For the Council
The President
C. VEERMAN