COMMISSION REGULATION (EC) No 1923/1999

of 8 September 1999

amending Regulation (EC) No 411/97 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational programmes, operational funds and Community financial assistance

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ([1]), as last amended by Regulation (EC) No 1257/1999 ([2]) and in particular Article 48 thereof,

(1) Whereas Commission Regulation (EC) No 411/97 ([3]), as last amended by Regulation (EC) No 1013/1999 ([4]) lays down detailed rules for operational programmes, operational funds and Community financial assistance;

(2) Whereas the factors comprising production marketed by producer organisations should be amended to exclude quantities relating to direct sales because the latter do not involve activity on the part of the producer organisation and are very difficult to monitor;

(3) Whereas, in order to allow producer organisations to draw up their operational programmes on the basis of actual data and taking account of experience gained, the reference period for establishing the value of production marketed by producer organisations should be postponed so as to avoid the establishment of an estimated operational fund requiring updating; whereas in order to guarantee the maximum flexibility taking account of national needs a time limit should be set for postponement of the reference period with Member States given the responsibility of choosing an earlier twelve-month period if need be; whereas, in addition, to guarantee equal treatment for all products intended for processing eligible for an aid system under Council Regulations (EC) No 2201/96 on the common organisation of the market in products processed from fruit and vegetables ([5]), as amended by Regulation (EC) No 2199/97 ([6]), and No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruit ([7]), the aid referred to in Article 1 of Regulation (EC) No 2202/96 received by producer organisations should be added to the value of marketed production of citrus fruit;

(4) Whereas the Annex to Regulation (EC) No 411/97 should be amended so as to stipulate that investments by producer organisations for the processing of fruit and vegetables are excluded from financing under operational programmes while specifying that certain operations preparing products for processing traditionally carned out by farmers are not to be considered as processing;

(5) Whereas, to take account of experience gained, certain adjustments should be made to the rules on applications for and the payment of Community financial assistance and on penalties;

(6) Whereas amendments having a direct impact on the preparation and content of operational programmes must be made to apply to the next annual period for the application of operational programmes, which starts on 1 January 2000; whereas, however, it is necessary to grant Member States the possibility of retaining programmes approved before the entry into force of this Regulation if adjusting them would be inappropriate given their state of advancement;

(7) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 411/97 is hereby amended as follows:

1. In Article 2, paragraph 4 is replaced by the following:

'4. For the purposes of this Regulation, "marketed production" means the products of members of producer organisations for which the latter are recognised, disposed of under the conditions laid down in the first and second subparagraphs of Article 11(1)(c)(3), with the exception of the first indent thereof, of Regulation (EC) No 2200/96.'

2. The first subparagraph of Article 2(5) is replaced by the following:

'5. For the purpose of applying the third subparagraph of Article 15(5) of Regulation (EC) No 2200/96, the ceiling on financial assistance shall be calculated on the basis of the value of marketed production during a one-year reference period to be determined by the Member States. That

([1]) OJ L 297, 21.11.1996, p. 1.
([2]) OJ L 160, 26.6.1999, p. 80.
([3]) OJ L 62, 4.3.1997, p. 9.
([4]) OJ L 123, 13.5.1999, p. 42.
([5]) OJ L 297, 21.11.1996, p. 29.
([6]) OJ L 303, 6.11.1997, p. 1.
([7]) OJ L 297, 21.11.1996, p. 49.

period shall commence no earlier than 1 January of the second year preceding that for which the ceiling is fixed and shall end no later than 30 June of the year preceding that for which the ceiling is fixed. The value of marketed production shall be increased by the amount of the aid as provided for in Article 1 of Regulation (EC) No 2202/96 received by producer organisations during the same period.

On the basis of objective criteria, Member States may set two different reference periods.'

3. In the second subparagraph of Article 7(1), point (b) is replaced by the following:

'(b) the value of marketed production established in accordance with the first subparagraph of Article 2(5).'

4. Article 7(3) is deleted.

5. Article 7(4) is replaced by the following:

'4. Before 31 January, Member States shall send the Commission a summary of the estimated amounts of the operational funds, indicating separately the value of marketed production on which those amounts are calculated, and a summary of the estimated amounts of financial assistance. They shall also forward the information referred to in Article 2(6).'

6. The second subparagraph of Article 8(1) is replaced by the following:

'Applications for advance payments shall be made in January, April, July and October. They shall cover foreseeable expenditure arising from operational programmes for the three-month period starting in the month in which the application is submitted. Total advance payments made for a given year may not exceed 90 % of the estimated amount of financial assistance and 25 % of the value of production marketed by the producer organisation, less the estimated expenditure on withdrawals as referred to at point (a) of the second subparagraph of Article 7(1).'

7. The following paragraph is added to Article 8:

'4. Alternatively, at their request producer organisations may opt for a system of applications for a proportion of the Community financial assistance covering expenditure resulting from the operational programme. Applications for a proportion of the financial assistance shall be submitted in April, July and October and shall cover expenditure incurred during the three preceding months. They shall be accompanied by suitable supporting documents. Total payments in respect of applications for a proportion of the financial assistance may not exceed 90 % of the estimated amount of financial assistance and 2,25 % of the value of the producer organisation's marketed production, less estimated expenditure on withdrawals as referred to at point (a) of the second subparagraph of Article 7(1).

Applications for a proportion of the financial assistance covering withdrawals may, where applicable, be submitted together with applications as referred to in the first subparagraph. Such applications shall be subject to the limits referred to in the third subparagraph of paragraph 2.'

8. The following paragraph is added to Article 9:

'4. Once the checks laid down have been carried out, Member States shall pay the financial assistance to the producer organisations which have submitted applications for financial assistance not exceeding 2,5 % of the value of their marketed production. Once the checks laid down have been carried out, they may pay the other producer organisations a first instalment of the financial assistance not exceeding 2,5 % of the value of their marketed production. The balance shall be paid once the ceiling is set in accordance with the second paragraph of Article 10.'

9. Article 13(2) is replaced by the following:

'2. Without prejudice to application of the ceiling referred to in the second paragraph of Article 10, where the difference between the assistance applied for in accordance with Article 9(1) or that actually paid and the assistance payable is greater than 20 % of the assistance payable, the applicant shall not qualify for the assistance in respect of the year in question and the recipient shall be required to repay all of the assistance paid, plus interest as provided for in paragraph 1.'

10. The following point is added to the Annex:

'17. Investments for the processing of fresh products; operations carried out by producer organisations concerning preparation of the product, in particular cleaning, cutting, trimming, drying and packaging, with a view to its marketing, are not deemed processing.'

Article 2

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

Article 1(1), (2), (3), (4), (5), (6) and (10) shall apply for the first time to operational programmes implemented in 2000. Operational programmes approved by Member States before the entry into force of this Regulation and whose application continues into 2000 must comply with this Regulation, if necessary by means of an amendment to be requested by producer organisations before 15 September 1999.

However, Member States may provide for the retention of programmes approved before the entry into force of this Regulation if adjusting them would be inappropriate given their state of advancement.

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

Done at Brussels, 8 September 1999.

For the Commission
Franz FISCHLER
Member of the Commission