



**COUNCIL OF
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NOTE

from : Danish delegation
to : Council

Subject : The clearance of accounts procedure for the future - flat-rate corrections

Delegations will find attached a note submitted by the Danish delegation, to be dealt with under "Any other business" at the Council (Agriculture and Fisheries) on 23-24 April 2009.

The clearance of accounts procedure for the future - flat-rate corrections

The clearance of accounts system is one of the corner stones with regard to the protection of the financial interests of the Community.

It is therefore very important - both for the Member States and the Community - that the clearance of accounts system and procedures function in an optimal way and as smoothly and swiftly as possible.

On the basis of a report drawn up in 1993 by the so-called "Belle Group", a group established by the Commission and named after Belle, the chairman of the group, the clearance of accounts procedures were reformed with effect from the 1995 EAGGF year.

The group's report (hereinafter called the "Belle Report") concluded that the old system of clearance of accounts should be changed, partly because of the delays of the clearance of accounts decision which the old system entailed, but also because the old system was seen to be a means of imposing penalties.

The envisaged new system would have better procedures (resulting in speedier clearance of accounts decisions) and would be preventive and corrective, rather than a means of imposing penalties, and would, in addition, be accompanied by adequate procedural guarantees when corrections prove unavoidable.

The Commission adopted the conclusions of the Belle Report and set up the new system along the lines of the report.

The new system is described in Working Document VI/5330/97, which states that so-called "flat-rate" corrections, based on an evaluation of the financial risk to the fund, should only be applied as the third and ultimate possibility, when corrections based on errors found in individual files or based on an extrapolation of errors found in individual files cannot be made.

In the working document, it is further stated with regard to flat-rate corrections that the fact that the way in which a control procedure operates is perfectible in itself does not provide sufficient grounds for a financial correction. There must be a serious non-compliance with explicit Community rules, and the deficiency must expose the Fund to a real risk of loss or irregularity.

According to our view, over the last years, the clearance of accounts procedures have again become a means of imposing penalties in the form of flat-rate corrections even for slight deficiencies, where the financial risk to the Fund is non-existent or very minor.

The total amount of financial corrections has gone up from 221 million euro in 2002 to 985 million in 2008 (the number of Member States has also risen from 15 to 27, but the new Member States do not yet appear in the corrections statistics with large amounts).

Furthermore, Member States perceive flat-rate corrections now more as the rule than as an exception. Flat-rate corrections are very difficult to oppose, as slight deficiencies in big systems can always be found.

The concentration of money in the Single Payment Scheme (SPS) poses a further problem, as even a 2 % correction, which is the lowest according to the existing flat-rate system, can amount to very large sums.

The clearance of accounts procedures and the financial consequences drawn by the Commission should be brought back on the 1995 tracks, the clearance of accounts procedures should become preventive and corrective, rather than a means of imposing penalties. Flat-rate corrections should - as outlined in Working Document VI/5330/97 - only be used if corrections based on errors found in individual files or an extrapolation of errors found in individual files cannot be made.

Moreover, the process of the conformity clearance of accounts should be speeded up so that Member States can learn about possible weaknesses in their systems as quickly as possible and take swift remedial action. Under the present system, 4 or 5 years may pass from the audit visit to the final decision by the Commission. This speeding up of the process could be achieved by imposing time limits on the Commission, as the time limits contained in the present rules only apply to the Member States.

The rates of the flat-rate corrections must be reviewed due to the concentration of funds into the SPS (or Single Area Payment Scheme as it may be).

Finally, it can be questioned whether there is a real financial risk to the Fund in the SPS/SAPS system, as the funds available to each Member State are set in national envelopes, which cannot be exceeded. Consequently, any errors can only result in a marginal redistribution of funds between the farmers in question but not in a loss for the Fund. It would therefore be more reasonable to use fixed penalties instead of flat-rate corrections supposed to reflect the risk to the Fund.