

COMMISSION DECISION

of 18 December 2009

conferring on the former Yugoslav Republic of Macedonia management of aid relating to the Component V — Agriculture and Rural Development of the Instrument for Pre-Accession Assistance (IPA) for pre-accession measures 101, 103 and 302 in the pre-accession period

(2009/987/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA) ⁽²⁾ and in particular Articles 18 and 186 thereof,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾ (hereinafter referred to as: 'the Financial Regulation'), and in particular Article 53c and Article 56(2) thereof,

Having regard to Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾ (hereinafter referred to as: 'the Implementing Rules') and in particular Article 35 thereof,

Whereas:

- (1) Regulation (EC) No 1085/2006 establishing an Instrument for Pre-Accession Assistance (IPA) lays down the objectives and main principles for pre-accession assistance to candidate and potential candidate countries for the period from 2007 to 2013 and confers the responsibility for its implementation to the Commission.
- (2) Articles 11, 12, 13, 14, 18 and 186 of Regulation (EC) No 718/2007 implementing Regulation (EC) No 1085/2006 give the Commission the possibility to confer management powers to the beneficiary country and define the requirements for such conferral relating to the Component V — Agriculture and Rural Development of the Instrument for Pre-Accession Assistance.

- (3) Pursuant to Article 7 of Regulation (EC) No 718/2007 the Commission and the beneficiary country shall conclude a framework agreement, in order to set out and agree on the rules for cooperation concerning EU financial assistance to the beneficiary country. Where necessary, the framework agreement may be complemented by a sectoral agreement, or sectoral agreements, covering component specific provisions.

- (4) For conferring management powers to the beneficiary country the conditions laid down in Article 53c and Article 56(2) of the Financial Regulation and in Article 35 of the Implementing Rules must be fulfilled.

- (5) The Framework Agreement on the rules for cooperation concerning EC-financial assistance to the former Yugoslav Republic of Macedonia in the framework of the implementation of the assistance under the instrument for Pre-Accession Assistance (IPA) between the Government of the former Yugoslav Republic of Macedonia and the Commission of the European Communities was concluded on 4 March 2008.

- (6) The Programme for Agriculture and Rural Development of the former Yugoslav Republic of Macedonia under IPA (hereinafter referred to as 'IPARD Programme'), approved by Commission Decision C(2008) 677 of 25 February 2008, in accordance with Article 7(3) of Regulation (EC) No 1085/2006, and Article 184 of Regulation (EC) No 718/2007 included a plan for the annual Community contributions as well as the financing agreement.

- (7) The Sectoral Agreement concluded on 29 January 2009 between the Commission of the European Community, acting for and on behalf of the European Community and the Government of the former Yugoslav Republic of Macedonia, acting on behalf of the former Yugoslav Republic of Macedonia, complements the provisions of the Framework Agreement, laying down the specific provisions applicable for the implementation and the execution of the IPARD Programme for Agriculture and Rural Development of the former Yugoslav Republic of Macedonia under the Instrument for Pre-Accession Assistance (IPA).

- (8) The IPARD Programme was last amended on 23 September 2009 by Commission Decision C(2009) 7041.

⁽¹⁾ OJ L 210, 31.7.2006, p. 82.

⁽²⁾ OJ L 170, 29.6.2007, p. 1.

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁴⁾ OJ L 357, 31.12.2002, p. 1.

- (9) Pursuant to Article 21 of Regulation (EC) No 718/2007 the beneficiary country has to designate bodies and authorities responsible for implementation of the IPARD Programme: the Competent Accrediting Officer, the National Authorising Officer, the National Fund, the Managing Authority, the IPARD Agency and the Audit Authority.
- (10) The Government of the former Yugoslav Republic of Macedonia has appointed the National Fund, a central treasury body within the Ministry of Finance, acting as the National Fund, which will execute the functions and responsibilities as defined in Annex I to the Sectoral Agreement.
- (11) The Government of the former Yugoslav Republic of Macedonia has appointed the Agency for Financial Support in Agriculture and Rural Development, to act as the IPARD Agency, which will execute the functions and responsibilities as defined in Annex I to the Sectoral Agreement.
- (12) The Government of the former Yugoslav Republic of Macedonia has appointed the Managing Authority, within the Ministry of Agriculture, Forestry and Water Economy, to act as the Managing Authority, which will execute the functions and responsibilities as defined in Annex I to the Sectoral Agreement.
- (13) The Competent Accrediting Officer notified the European Commission on 18 March 2009 of the accreditation of the National Authorising Officer and the National Fund in accordance with Article 12(3) of Regulation (EC) No 718/2007.
- (14) The National Authorising Officer notified the European Commission on 18 March 2009 of the accreditation of the operating structure in charge of the management and implementation of the IPA Component V — Rural Development, in accordance with Article 13(3) of Regulation (EC) No 718/2007.
- (15) The Agency for Financial Support in Agriculture and Rural Development, acting as the IPARD Agency, and the Managing Authority, acting as the Managing Authority, will be responsible for implementing the three measures accredited by the National Authorising Officer out of four from the IPARD Programme: 101 'Investments in agriculture holdings to restructure and to upgrade to Community standards', 103 'Investments in the processing and marketing of agricultural and fishery products to restructure these activities and to upgrade them to Community standards' and 302 'Diversification and development of rural economic activities' as defined in the Programme.
- (16) On 22 October 2008 and on 24 February 2009 the National Authorities submitted to the Commission the list of eligible expenditure in conformity with Article 32(3) of the Sectoral Agreement. The Commission approved this list on 17 April 2009.
- (17) In order to take into account the requirements of Article 19(1) of the Framework Agreement the expenditure pursuant to this Decision shall be eligible for Community co-finance only if not paid earlier than the date of conferral decision, with the exception of general costs referred to in Article 172(3)(c) of Regulation (EC) No 718/2007. Expenditure shall be eligible if it is in accordance with the principles of sound financial management and, in particular, of economy and cost-effectiveness.
- (18) Regulation (EC) No 718/2007 provides that the ex-ante approval requirement referred to in Article 18(2) of Regulation (EC) No 718/2007 may be waived on the basis of a case-by-case analysis of effective functioning of the management and control system concerned and provides for detailed rules for the carrying out of the said analysis.
- (19) Pursuant to Articles 14 and 18 of Regulation (EC) No 718/2007, the accreditations referred to in Articles 11, 12 and 13 of Regulation (EC) No 718/2007 have been reviewed; and the procedures and structures of the bodies and authorities concerned, as set out in the application submitted by the National Authorising Officer, have been examined, including by on-the-spot verifications.
- (20) Nonetheless the verifications carried out by the Commission for measure 101 'Investments in agriculture holdings to restructure and to upgrade to Community standards', measure 103 'Investments in the processing and marketing of agricultural and fishery products to restructure these activities and to upgrade them to Community standards' and measure 302 'Diversification and development of rural economic activities' are based on a system that is operational, but not yet operating, with regard to all relevant elements.
- (21) Although the Audit Authority is not itself part of this Decision, its level of readiness to operate as a functionally independent audit body by the time of submission to the Commission of the accreditation package for the conferral of management has been evaluated by on-the-spot verifications.
- (22) The former Yugoslav Republic of Macedonia's compliance with the requirements of Article 56(2) of the Financial Regulation and Articles 11, 12 and 13 of Regulation (EC) No 718/2007 has been assessed by on-the-spot verifications.
- (23) The assessment has shown that the former Yugoslav Republic of Macedonia complies with the requirements for measures 101, 103 and 302.

(24) It is therefore appropriate to waive the ex ante approval requirements referred to in Article 18(1) of Regulation (EC) No 718/2007 and Article 165 of the Financial Regulation and to confer on the National Authorising Officer, on the National Fund, on the IPARD Agency and on the Managing Authority, the management powers relating to the measures 101, 103 and 302 of the Programme for the former Yugoslav Republic of Macedonia on a decentralised basis,

HAS ADOPTED THIS DECISION:

Article 1

1. The management of assistance provided for under IPA — Component V as regards Agriculture and Rural Development of the Instrument for Pre-Accession Assistance (IPA) is conferred on the concerned bodies under the conditions laid down in this Decision.

2. The requirement for ex ante approval by the Commission of managing, paying and implementing functions for measure 101 'Investments in agriculture holdings to restructure and to upgrade to Community standards', measure 103 'Investments in the processing and marketing of agricultural and fishery products to restructure these activities and to upgrade them to Community standards' and measure 302 'Diversification and development of rural economic activities' by the former Yugoslav Republic of Macedonia for in Article 18 of Regulation (EC) No 718/2007, is hereby waived.

Article 2

This Decision shall apply on the basis of the following structures, bodies and authorities designated by the former Yugoslav Republic of Macedonia for the management of measures 101, 103 and 302 of the Programme provided for under IPA — Component V:

- (a) the National Authorising Officer;
- (b) the National Fund;
- (c) the Operating Structure for IPA — Component V:
 - the Managing Authority,
 - the IPARD Agency.

Article 3

1. The management powers are conferred on the structures, bodies and authorities as specified in Article 2 of this Decision.

2. The national authorities shall carry out further verifications with regard to the structures, bodies and authorities set out in Article 2 of this Decision, in order to ensure that the management and control system operates satisfactorily. Verifications shall be carried out before the submission of the first Declaration of Expenditure requesting the reimbursement related to measures stated in Article 1(2) above.

Article 4

1. Expenditure paid earlier than the date of this Decision shall in no case be eligible with the exception of general costs referred to in Article 172(3)(c) of Regulation (EC) No 718/2007.

2. Expenditure shall be eligible if it is in accordance with the principles of sound financial management and, in particular, of economy and cost-effectiveness.

Article 5

Without prejudice to any decisions granting aid under the IPARD Programme to individual beneficiaries, the rules for eligibility of expenditure proposed by the former Yugoslav Republic of Macedonia by letter No 08-44/82 of 22 October 2008 and letter No 08-77/16 of 24 February 2009, registered in the Commission respectively on 21 November 2008 under No A/31025 and on 24 March 2009 under No A/7937, shall apply.

Article 6

1. The Commission shall monitor compliance with the requirements for the conferral of management powers as laid down in Article 17 of Regulation (EC) No 718/2007.

2. At any time during the implementation of this Decision, should the Commission consider that the obligations of the former Yugoslav Republic of Macedonia under this Decision are no longer met, the Commission may decide to withdraw or suspend the conferral of management powers.

Done at Brussels, 18 December 2009.

For the Commission
The President

José Manuel BARROSO