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**EUROPEAN UNION FOOD AID FOR
DEPRIVED PERSONS: AN ASSESSMENT
OF THE OBJECTIVES, THE MEANS
AND THE METHODS EMPLOYED**



EN



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EUROPEAN UNION FOOD AID FOR DEPRIVED PERSONS: AN ASSESSMENT OF THE OBJECTIVES, THE MEANS AND THE METHODS EMPLOYED

(pursuant to Article 248(4), second subparagraph, EC)

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EXECUTIVE SUMMARY

I.

The programme of food aid for deprived persons was first introduced in 1987. It was designed to release products that were available in Community intervention stocks to charitable organisations for free distribution to persons in need.

II.

The measure has two main objectives: a social one (to make a significant contribution to the well-being of deprived persons) and a market one (stabilisation of the markets of agricultural products through the reduction of intervention stocks). The budget for the programme was 307 million euro in 2008 (for 19 Member States) and is increased to 500 million euro for 2009.

III.

The paying agencies, responsible for intervention stocks in the Member States, were given responsibility for managing the programme. At operational level, the programme is managed by charitable organisations, which receive and distribute the foodstuffs to deprived persons. The significant decline in intervention stocks in recent years means that the bulk of the products for distribution had to be purchased on the market (85 % in 2008).

IV.

The audit focused on the validity of the intended aims in the context of an evolving market and social situation, the adequacy of the means made available, the programme's impact, and the administrative and management procedures.

V.

The financing of the programme under CAP expenditure was initially justified because of the use of intervention stocks. However, when intervention stocks were reduced to almost zero in recent years the link of the programme with agricultural expenditure became tenuous. Participation in the programme is voluntary with some Member States considering that the measure should not be financed from the EAGF budget.

VI.

The measure was designed to alleviate poverty but not to eliminate it. In this regard the resources made available can only have a limited impact on the situation of individual deprived persons, offering on average the equivalent of one meal per month to its beneficiaries. Therefore, in order to enhance its effectiveness, it is necessary to better target the aid and to ensure better coordination with social policy. Furthermore, the existing provisions constrain the variety of the products to be distributed, while the procedures applied in the entire distribution chain result in different treatment of final beneficiaries in terms of the quantity of food provided per person.

EXECUTIVE SUMMARY

VII.

The fact that the programme is managed at operational level by thousands of charitable organisations, mainly staffed by volunteers and dealing with an unstable and not easily monitored target population, poses particular challenges for the administration of the scheme. Monitoring and reporting systems at Commission and Member States levels have to be improved, as well as the methodology for allocating the financial resources between the Member States. Finally, the tendering procedures employed by the Member States differ considerably and do not ensure equal access to all EU operators and the broadest competition. Thus there is the risk that best conditions are not achieved always for products withdrawn from intervention stocks or for those purchased on the open market. It is also considered that the bartering arrangements used are cumbersome and difficult to control.

VIII.

The Commission has recently made a proposal to reform the programme, which would go some way to addressing certain of the weaknesses highlighted by the Court's audit.

IX.

As the Budgetary Authorities favour the continuation of the programme, the Court makes a number of recommendations concerning the appropriateness of financing the programme under CAP expenditure, the need for increasing the impact of the measure, the integration of the programme into the social policy framework, the expansion of the variety of the products distributed, the need for improvement of the distribution methods as well as the management, monitoring and tendering procedures.

INTRODUCTION

MAIN CHARACTERISTICS OF THE PROGRAMME

1. The origin of the programme for deprived persons goes back to 1987 when Europe was affected by an exceptionally cold winter which had particularly severe consequences for the most vulnerable individuals, i.e. the deprived persons. In order to alleviate the humanitarian emergency the Community adopted measures to release various foodstuffs, particularly agricultural products which were available in the Community intervention stocks¹, to charitable organisations for free distribution to the persons in need.
2. The measure was widely welcomed and subject to high demand. It was subsequently made permanent² and still applies today.
3. The programme was innovative for the EU in the sense that its key feature consisted in helping the most deprived persons by distributing food aid to them through charitable organisations in the form of either prepared meals for immediate consumption or food packages.
4. The legal provisions governing the scheme define the most deprived person as follows³ (see **Box 1**).

¹ Agricultural products bought-in under public intervention measures aiming to stabilise markets and ensure a fair standard of living for the agricultural community.

² Council Regulation (EEC) No 3730/87 (OJ L 352, 15.12.1987, p. 1).

³ Article 1 of Commission Regulation (EEC) No 3149/92 (OJ L 313, 30.10.1992, p. 50).

BOX 1

THE DEFINITION OF 'MOST DEPRIVED PERSONS'

'The most deprived persons' means physical persons, whether individuals, families or groups composed of such persons, whose social and financial dependence is recorded or recognised on the basis of eligibility criteria adopted by the competent authorities, or is judged to be so on the basis of the criteria used by charitable organisations and which are approved by the competent authorities.

5. This definition makes it difficult to quantify the programme's target group. For the purpose of allocating the programme's funds to Member States, the Commission uses a categorisation known as the population 'at risk of poverty'. This is a relative measure, defined for each Member State as the persons with an income below 60 % of the average income⁴. This is also a big target group, with one person in six being classified as 'at risk of poverty' within the EU as a whole (see **Box 2**).
6. The resources available for the programme for the years covered by the audit, were 216 million euro in 2005, 264 million euro in 2006, 274 million euro in 2007 and 307 million euro in 2008⁵. For 2009 this amount is 500 million euro.
7. Despite the increasing budgetary appropriations, the amount available per person in the last three years was 6,24 euro/person in 2006, 5,73 euro/person in 2007 and 5,83 euro/person in 2008 (see **Annex II**). These modest figures per potential beneficiary put into context the programme's potential impact.

⁴ Technically, it is the number of people statistically identified with revenue below a threshold of 60 % of the median equivalised income. Relevant data is collected and provided by Eurostat.

⁵ Budgetary appropriations allocated to the programme are indicated in budget line 05 02 04 01 of the EU budget.



Source: Charitable Organisations.

BOX 2

DEPRIVED PERSONS IN THE EU

In the European Union, around 80 million persons, equivalent to 16% of the population of the EU-27 are defined as at risk of poverty (see **Annex I** for details), while around 43 million people are at risk of food poverty⁶.

⁶ Impact assessment SEC(2008) 2436/2 accompanying the Commission proposal for a Council Regulation as regards food distribution to the most deprived persons in the Community, page 11.

People at risk of food poverty is a Eurostat indicator defined as the percentage of people who cannot afford a meal with meat, chicken or fish every second day.

OVERVIEW OF MANAGEMENT AND CONTROL ARRANGEMENTS

- 8.** The conditions and procedures to be followed for the implementation of the programme are laid down in Regulation (EEC) No 3730/87, subsequently incorporated into Council Regulation (EC) No 1234/2007, and in the implementing Regulation (EEC) No 3149/92⁷. Over the course of the years the rules of the programme have been modified. In 1992, an amendment was introduced whereby the products distributed should not necessarily be those withdrawn from the intervention stocks, and the transfer of intervention stocks between Member States was made possible. In 1995 it was decided that, in cases where a product was temporarily unavailable in Community intervention stocks, Member States could purchase similar products directly on the Community market.
- 9.** Member States' participation in the programme is on a voluntary basis with participating Member States having to notify their intention to the Commission each year and to communicate their perceived needs. The number of Member States participating in the programme has increased in recent years: 10 in 2005, 15 in 2006, 18 in 2007 and 19 in 2008. *Annex II* shows the amounts of budgetary appropriations and financial allocations by Member State for the period 2005–2008.
- 10.** The Commission establishes an annual plan including for each Member State applying the measure, the maximum financial resources to be made available, the quantity of each agricultural product to be withdrawn from Community intervention stocks and the amount available for each product.
- 11.** The products withdrawn from intervention stocks are generally not in a suitable form for direct distribution to the recipients for immediate consumption and therefore they have to be processed/exchanged against final food products (see *Box 3*). This creates a significant complication in the management of the programme insofar as the operations necessary to obtain the final food products (processed food against products from intervention stocks and purchases) are subject to tendering procedures organised by the competent authorities of the Member States. The related transport costs from the supplier to the organisations are also subject to tendering procedures.
- ⁷ Regulation (EEC) No 3730/87 laying down general rules as incorporated in Council Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) establishing a common organisation of agricultural markets, and Commission Regulation (EEC) No 3149/92 of 29 October 1992 (OJ L 313, 30.10.1992, p. 50) laying down detailed rules for the supply of food from intervention stocks for the benefit of the most deprived persons in the Community.

- 12.** In recent years the quantities of products in the Community intervention stocks have decreased very significantly due to the changed market situation⁸. Consequently, the stocks in intervention storage no longer cover the programme's needs and certain products for distribution have to be purchased directly on the market. The value of the products bought in 2006 represented 18 % of the programme's resources, while in 2008 it was more than 85 %. For the annual plan 2008 only sugar was available in intervention.
- 13.** At the level of the Member States the plan is implemented under the responsibility of the paying agencies⁹, which also exercise either directly, or via delegation to other services, the supervisory and control tasks¹⁰.

⁸ For more details please refer to Special Report No 11/2008 on the management of the European Union support for the public storage operations of cereals (<http://www.eca.europa.eu>).

⁹ 'Paying agency' is the body or the bodies accredited by a Member State in accordance with Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

¹⁰ Article 9 of Regulation (EEC) No 3149/92 provides that checks should be carried out by the competent authorities at all stages of the implementation of the plan and at all levels of the distribution chain. The checks should cover at least 5 % of the quantity of each product to each implementation stage, except for the stage of actual distribution to the most deprived persons. Article 10 of the same Regulation sets out that Member States should send to the Commission an annual report on the implementation of the plan on their territory, also specifying the verification measures applied to ensure that the goods have achieved their intended objective and have reached the final recipients.

BOX 3

EXAMPLES OF PRODUCTS WITHDRAWN FROM INTERVENTION STOCKS AND FINAL PRODUCTS DISTRIBUTED

Intervention stocks	Products distributed
Rice	<ul style="list-style-type: none"> • vaporised rice • white rice • rice with milk • rice biscuits
Cereals	<ul style="list-style-type: none"> • pasta • biscuits • breakfast cereals • flour • barley groats • couscous
Butter	<ul style="list-style-type: none"> • milk • milk products • cheese • butter
Sugar	<ul style="list-style-type: none"> • white sugar • jam

DISTRIBUTION CHAIN: THE CHARITABLE ORGANISATIONS

- 14.** The food aid is channelled to deprived persons mainly through charitable organisations, designated by the Member State concerned, to whom the products are made available free of charge. These charitable organisations are often structured around three levels — national, regional and local — and present different administrative structures (see **Box 4**). Several thousands of charitable organisations at all levels currently participate in the reception and distribution of the foodstuffs to deprived persons, for which purpose the Regulation stipulates that the charitable organisations directly looking after the beneficiaries shall be deemed to be the final recipients of this distribution¹¹.

¹¹ Article 5a of Regulation (EEC) No 3149/92.

BOX 4

THE ORGANISATIONS PARTICIPATING IN THE EU PROGRAMME

The structure and responsibilities of the charitable organisations in the Member States audited are as follows:

1st level: 'Designated' by the national authorities organisations (e.g. Red Cross, Caritas, Federation of Food Banks, etc.). They act at national level as headquarters of lower level organisations for matters related to representation, contacts with the national authorities, coordination and supervision of the activities. They do not distribute aid to final recipients.

2nd level: Charitable organisations acting at regional/local level (e.g. dioceses Caritas, food banks, etc.). The majority of them belong to the network of the main organisations. They have the storage capacities and receive the foodstuffs and distribute them to lower level organisations and/or to final beneficiaries.

3rd level: Organisations operating locally and distributing the aid directly to the beneficiaries. There are up to several thousands in each Member State and their missions are wide and multiple. Very often these organisations belong to a network of the main charitable organisations, but also include independent organisations created at the initiative of local communities.

The Commission does not dispose of data on the number of the designated and other charitable organisations which participate in the EU programme. In the Member States audited they numbered around 40 000. Details are shown below:

Type of charitable organisation	Spain	France	Italy	Poland
Designated organisations (1st level)	1	4	7	4
Organisations at regional/departmental level (2nd level)	52	250–300	249	89
Organisations of lower level distributing food to final recipients (3rd level)	approx. 6 000	approx. 9 000	14 973	9 366

- 15.** Hence, charitable organisations play a key role in the implementation of the programme. While the programme contributes towards their administrative costs to a limited extent (1 % of the value of the products made available)¹², the designated organisations bear most of their own administrative and operational costs for the reception, storage and distribution of the goods to the final beneficiaries.
- 16.** By their nature, the charitable organisations involved in the scheme are difficult to be held accountable in normal administrative terms as they are mainly staffed by volunteers and deal with an unstable and not easily monitored target population. These circumstances pose particular challenges for the administration of the scheme.
- 17.** The quantities of food provided by the EU programme generally represent only one element of the totality of the food products distributed for free by the charitable organisations involved. However, for certain charitable organisations operating at local level, the EU programme is the only source of food for distribution to deprived persons. For the Member States and charitable organisations audited the following figures were given¹³ (see **Box 5**).

¹² Charitable organisations also stressed that it would be necessary to increase the administration and logistics infrastructure (storage and distribution capacities and related manpower) for meeting the need to distribute increased quantities of products.

¹³ The Commission does not dispose of complete data for all Member States.

BOX 5

PARTICIPATION OF THE EU PROGRAMME TO THE TOTAL QUANTITIES DISTRIBUTED

Spain: In 2006 the quantities distributed by the designated organisation amounted to 60 048 tonnes, of which 32 660 (54 %) were from the EU programme and the remainder from other sources (food industry, wholesalers, markets, collect actions, etc.).

France: There is a national programme supplementary to the EU one. There is no exact data but it is estimated that the national programme represents about 6 % and the EU programme 30 % of the total quantities distributed.

Italy: There is no data on country level. For two organisations audited the EU programme covers almost 100 % of the quantities distributed. For another organisation the EU participation is about 60 %.

Poland: There are no concrete global figures. EU programme covers approximately 60–70 % of food distributed by the two organisations audited (estimation).

AUDIT SCOPE AND APPROACH

- 18.** The audit objective was to assess the programme 'European Union food aid for deprived persons' with reference to the relationship between objectives, means and methods employed. In particular, the audit examined whether the intended aims of the programme are still valid in the context of an evolving market and social situation. Furthermore the adequacy of the means made available and of the systems applied for measuring the programme's impact on the beneficiaries was also assessed in terms of value, quantity and variety of products provided and distributed. Finally the audit examined the administrative and management procedures used for the implementation of the annual plans.
- 19.** The main questions addressed in this report are the following:
- (a) Do the objectives of the programme remain valid and is the approach appropriate?
 - (b) Are the means commensurate with the objectives sought and adequately implemented?
 - (c) Are the procedures being applied as intended?
- 20.** To answer these questions the audit work covered the data for measuring the programme's impact in relation to each of the objectives set, the selection and eligibility criteria for charitable organisations participating in the scheme and for the final beneficiaries, the implementation of the annual plans by all stakeholders involved and the mechanisms used for the distribution of the foodstuffs in terms of quantity, quality and variety. Finally the system for establishing the needs, the allocation of the financial resources to the Member States and the procurement procedures for the final products to be supplied to charitable organisations for distribution were examined.

- 21.** The audit covered the management and monitoring of the programme at both the Commission and in selected Member States. The audit work focused on the analysis, documentation and testing of the procedures and systems applied for the management of the programme by the Commission, by the competent national authorities, and by some of the designated charitable organisations at national, regional and local level participating in the actual distribution of foodstuffs to deprived persons.

- 22.** The audit was carried out in four Member States — Spain, France, Italy and Poland — accounting for more than 72 % of the annual budgetary appropriations. The audit focused on the plans for the years 2006–2008.



Source: Charitable Organisations.

OBSERVATIONS

THE PROGRAMME'S OBJECTIVES AND APPROACH: DO THE OBJECTIVES OF THE PROGRAMME REMAIN VALID AND IS THE APPROACH APPROPRIATE?

THE DICHOTOMY OF THE PROGRAMME'S OBJECTIVES

- 23.** The legal provisions¹⁴ set for the measure the twin objectives of making a significant contribution towards the well-being of the most deprived citizens and the stabilisation of agricultural markets through the disposal of part of the intervention stocks (see **Box 6**).
- 24.** The programme's implementation responsibility has been given to the actors generally involved in the management of agricultural expenditure, namely the Directorate-General for Agriculture and Rural Development within the Commission and, in the Member States, the paying agency dealing with agricultural payments, and responsible for managing the intervention stocks.

¹⁴ Regulation (EEC) No 3730/87 laying down general rules as incorporated in Regulation (EC) No 1234/2007.

BOX 6

THE OBJECTIVES OF THE PROGRAMME

'The Community has through its intervention stocks of various agricultural products the potential means to make a significant contribution towards the well-being of its most deprived citizens; it is in the Community interest, and in line with the objectives of the common agricultural policy, to exploit this potential on a durable basis until the stocks have been run down to a normal level [...].'

WHEN INTERVENTION STOCKS ARE LOW THE LINK WITH AGRICULTURAL EXPENDITURE IS TENUOUS

- 25.** The current programme has been in application since 1987. The initial provisions favoured the financing of the programme using intervention stocks in line with the objectives of the common agricultural policy 'to run down the stocks to a normal level'¹⁵. However, the reform of the CAP in recent years, whereby intervention measures for certain products are being phased out, and the decrease of existing intervention stocks to zero, have considerably affected the implementation of the programme: the majority of the products now have to be purchased directly on the market¹⁶.
- 26.** Nevertheless, a tenuous link is still maintained with agricultural expenditure insofar as the products made available to deprived persons are still those derived from agricultural products eligible for intervention storage. This complicates the management of the measure and restricts the choice of products to be distributed. Finally, the nature of the aid, i.e. a contribution to alleviate poverty, is difficult to reconcile with the general nature of EU agricultural expenditure, whereby the support is targeted at farmers and/or the farming industry and eligible beneficiaries are entitled to receive a specific amount of aid.
- 27.** The issue of the appropriateness of treating the expenditure for the programme as part of the Common Agricultural Policy has been raised in the Management Committee meetings. Certain Member States who do not participate in the EU food programme have voted against the approval of the annual plans in the recent years considering this aid incompatible with the CAP's focus and type of financing¹⁷.

¹⁵ See Box 6.

¹⁶ For the annual plan 2008 only sugar was available in intervention and the rest of the products had to be mobilised on the market. A forecast published by DG AGRI in July 2007, 'The Prospects For Agricultural Markets and Income in the European Union', for the period 2007–2014, is that:

- for cereals 'public stocks would largely disappear in the early projection period',
- sugar is 'expected to reach balance as from 2010',
- for butter 'emptied intervention stocks in the first semester of 2007 will remain empty until the end of 2014' and
- for skimmed milk powder (SMP) 'the market is expected to remain balanced throughout the projection period with no necessity to offer products for intervention buying-in'.

¹⁷ Minutes of the meetings of the Management Committee for Cereals (adoption of the annual plan 2008):
 'DE: finds that there is no longer any consistency between the Council Regulation and the Implementing Regulation;
 NL, SE, UK: do not want a social measure to be financed by the CAP budget;
 NL: likewise because they do not want a social measure to be financed by the Community budget.'

THE SOCIAL OBJECTIVE OF THE MEASURE IS PREDOMINANT

- 28.** Although the contribution towards the well-being of the most deprived citizens was linked to the stabilisation of agricultural markets through the disposal of intervention stocks, recent developments mean that the social aim of the measure has become much more predominant. As early as 1998, the Commission published an evaluation of the European Community Food Programmes which concluded that the social aspects of the measure were regarded as a more important objective than that as an instrument of market regulation (see **Box 7**). Indeed, the evaluation considered that the effectiveness of the measure in terms of market regulation was doubtful since, on the one hand in some cases a proportion of the products withdrawn from Community stocks returned indirectly back to intervention and, on the other hand, the measure was considerably more expensive than export refunds as a method of reducing the structural surplus.

BOX 7

COMMISSION'S 1998 EVALUATION (MAIN CONCLUSIONS AND RECOMMENDATIONS)

'The social purpose of the measure is clearly set out in the regulations. [...] its usefulness in the context of persistent widespread poverty in Europe is attested by the charities [...]. When the measure was introduced another, admittedly secondary, purpose was to help run down the Community's huge and costly intervention stocks [...]. The measure can therefore still be regarded as a market regulation instrument'.

'The Member States [...] are well able to make effective use of the resources [...]. On the other hand, there is some doubt about the effectiveness of the measure in terms of market regulation. [...] in some cases, possibly a large proportion of the products withdrawn from Community stocks returns indirectly to intervention'.

'While there is no doubt that it [the aid] is an efficient instrument of social aid, it is considerably more expensive than export refunds as a method of reducing the structural surplus [...]'.

'[...] in view of Europe's serious poverty problem and of the unquestionable usefulness of the aid to the needy, continuation of the measure should certainly be recommended and possibly even an increase in the financial resources devoted to it. [...] The Council has made it clear [...] that the social aspects were regarded as more important than the role of the measure as an instrument of market regulation.'

- 29.** Regulation (EC) No 1234/2007, which consolidated Regulation (EEC) No 3730/87, also considers the scheme 'an important social measure'¹⁸.
- 30.** A similar perception of the social aim of the measure is shared by the managing authorities of the Member States visited during the audit, which expressed the importance of the social dimension of the programme being well coordinated at national level.
- 31.** Furthermore, as recently as April 2006, the European Parliament adopted a declaration 'on supplying approved charities working to implement the European food aid programme for the most deprived'. In its declaration, the European Parliament regarded the measure as a part of the aim of reducing poverty, and invited the Commission and the Council to maintain and increase the aid with certain implementing adaptations (see **Box 8**).

¹⁸ Regulation (EC) No 1234/2007, recital 18.

BOX 8

EP'S DECLARATION MAIN POINTS

- recognise the fact that there are undernourished people in the European Union and acknowledge the need to meet their food requirements,
- place the European food aid programme on a permanent footing and provide a global multiannual budget allocation,
- open the measure up to new sectors such as pork, poultry and eggs,
- include in the programme innovative measures to ensure the distribution of balanced food rations,
- regard food aid as part of the aim of reducing poverty,
- modify the rules so as to allow:
 - for the stocks reserved for the programme to be build up, i.e. set aside for and allocated to the most deprived,
 - for the bartering procedure to be extended,
 - for products that are not available as part of intervention stocks to be bought on the Community market.

COORDINATION WITH OTHER SOCIAL POLICY MEASURES SHOULD BE IMPROVED

- 32.** The legislator clearly established that the food aid programme should be regarded as a contribution, albeit significant, towards the well-being of its most deprived citizens¹⁹ (see **Box 6**). Hence, this contribution should be coordinated and create synergies with the other policies, schemes and actions set up at both Community and Member States levels to meet better the needs of the most deprived persons.
- 33.** At the level of the Member States audited, the managing authorities are the paying agencies for agricultural expenditure. With the exception of France, in the Member States audited there was no evidence of close cooperation between the paying agency and other key actors for social actions such as the ministries of social affairs. Such cooperation is necessary for better understanding and meeting the needs of the charitable organisations and of the deprived persons.

¹⁹ Regulation (EEC) No 3730/87.

THE MEANS AND METHODS EMPLOYED: ARE THE MEANS COMMENSURATE WITH THE OBJECTIVES SOUGHT AND ADEQUATELY IMPLEMENTED?

BETTER TARGETING OF RECIPIENTS NEEDED TO ACHIEVE 'SIGNIFICANT CONTRIBUTION'

LOW IMPACT OF THE EU AID

- 34.** The large number of potential beneficiaries and the relatively low level of available resources mean that beneficiaries need to be targeted to allow the measure to have any significant impact on the target population.
- 35.** As shown in table in **Annex II** the budgetary appropriations per potential beneficiary amounts to about six euro per person per year. On the other hand the Commission, in its impact assessment, indicates that in 2006 more than 13 million people in 15 Member States benefited from the programme and estimates that the cost of a single meal offered by charities is at least two euro. This implies that the programme contributes to the distribution of a maximum of three meals per year for each potential deprived person, or an average of 12 meals per year for each actual beneficiary of the aid.

36. While the EU programme in certain Member States accounts for more than 50 % of the food distributed to deprived citizens (see **Box 5**), the Court considers that a programme which offers, as a maximum, the equivalent of one meal per month to its beneficiaries on average is unlikely to meet the objectives of the legislator, namely that of making a 'significant contribution towards the well-being of its most deprived citizens'²⁰.

²⁰ Regulation (EC) No 1234/2007, recital 18.

37. In this respect, it would ideally be necessary to improve selection criteria and or priorities amongst potential beneficiaries as recommended by the impact assessment²¹; otherwise the contribution of the programme to the well-being of the most deprived persons will inevitably be negligible. It is important to recognise, however, that charitable organisations, by their very nature, may not be able or willing to adopt restrictive distribution policies.

²¹ Points 4 and 6.5 of Commission staff working document SEC(2008) 2436/2 accompanying the Proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community (COM(2008) 563 final).

UNCLEAR ELIGIBILITY AND SELECTION CRITERIA

38. In order to maximise the impact of the aid it is necessary to define workable priorities, both in view of selecting the charitable organisations which will channel the aid, and regarding categories and/or groups of the population who will receive the food aid.

39. The auditors found that in practice Member States have often without formalised procedures designated a small number of organisations operating nationwide, in which lower level organisations participate. Precise data on the number of the designated charitable organisations with which the authorities of the Member States cooperate for the implementation of the annual plans are not available. The charitable organisations at regional level automatically participate in the EU programme as being members of the main charitable organisations. They have certain independence in establishing the criteria they apply for accepting lower level organisations for the distribution of food aid.

40. Furthermore, according to the legal provisions, the beneficiaries' eligibility criteria should be based on 'recorded or recognised social and financial dependence'. Accordingly, national authorities should adopt such criteria or to approve criteria used by charitable organisations. Member States are also required to notify the Commission annually of the eligibility criteria to be met by recipients. The Court found that no such precise eligibility criteria were fixed by the Member States. The criteria communicated annually to the Commission²² are rather a typology of the persons assisted rather than quantitative or qualitative selection criteria (see **Box 9**).

²² Pursuant to Article 1(2) of Regulation (EEC) No 3149/92.

41. Finally the Court found that there were significant differences in the frequency of reception of the aid (some persons having occasional meals provided compared to people in social institutes or to families receiving food aid or parcels on a regular basis).



Source: Charitable Organisations.

BOX 9

EXAMPLES OF ELIGIBILITY CRITERIA USED BY CHARITABLE ORGANISATIONS

- Economic criteria: homelessness, poverty, unemployment ...
- Social criteria: immigrants, elderly people, large families ...
- Health criteria: illnesses, handicapped.

**THE VARIETY OF FOOD MADE AVAILABLE
IS CONSTRAINED BY THE INTERVENTION STORAGE LINK,
AND DISTRIBUTION VARIES WIDELY**

- 42.** The distribution of the foodstuffs by the charitable organisations to deprived persons may take different forms depending on the specific activities of the charitable organisation (meals offered in public canteens, meals offered in nurseries and hospices, packages of food delivered to individuals and families, etc.).
- 43.** The origin of the measure and its link with the distribution of foodstuff historically available from Community stocks also led to rules governing the programme which impose constraints on the variety of final products that may be acquired and distributed to the deprived persons.
- 44.** The legal provisions²³ stipulate that the supply of products mobilised on the Community market must belong to the same product group as the product temporarily unavailable in the intervention stocks. Up to September 2007 products from intervention stocks had to represent at least 40 % of the net weight of the food product to be supplied. Given the fact that in the course of the years some products have no longer been taken into intervention (e.g. beef, olive oil), the choice of products available for distribution to deprived persons has become limited.
- 45.** The Court found that several charitable organisations participating in the implementation of the programme considered it a priority to enlarge the variety of the products offered to allow the preparation of balanced meals²⁴.

²³ Article 4(1)(b) and 4(2a) of Regulation (EEC) No 3149/92.

²⁴ In particular they expressed the need for food products such as oil, tomato pasta, meat, frozen vegetables.

- 46.** The auditors also found that a wide variety of systems and methodologies are used to distribute foodstuffs from the managing authorities to designated organisations, from there to lower level charitable organisations and finally to deprived persons (see **Box 10**).

BOX 10
DISTRIBUTION MODALITIES

In Member States where more than one designated organisations are operating, the allocation of the foodstuffs among them is based on predetermined standard percentages applied and un-revised for many years (France, Poland). In Italy designated organisations are not involved and the distribution of the final products is made directly to regional level organisations on the basis on specified parameters (number of interventions and applications).

For the distribution of the food from the designated national organisations to the lower level organisations again a multiplicity of systems and in some cases factors are used. In Spain the distribution is based on certain coefficients set by the designated organisation. In Poland the organisations visited apply their own systems. For example one organisation has set a quantitative target, which is 35 kg of food per person per year. In France each designated organisation applies its own system. For example one organisation allocates the resources to 79 second level organisations on the basis of a factor called 'coefficients K' which is determined 'according to certain criteria: population of the department, number of jobseekers, number of long-term jobseekers, number of recipients of minimum welfare income for the unemployed'. Another organisation distributes the food to 98 federations proportionally to the number of beneficiaries declared.

The distribution of the foodstuffs to the final recipients by the charitable organisations and the frequency of deliveries are based on their own criteria and logistical capacities. In some cases charitable organisations suggest certain criteria. For example in Poland one organisation has proposed some standards for each delivery to an individual, e.g. milk at least 15 l per person and delivery, flour at least 5 kg per person and delivery.

In most of the cases the charitable organisations distribute whatever they have received on the basis of their own criteria and in some cases on the principle of equal treatment of the persons in need, i.e. the quantity of the available products is distributed in equal parts to each person adhered to the organisation or requesting the aid.

- 47.** Specifically, in the entire distribution chain there are no common standards, guidelines or indications at Community or national level concerning the quantity and the variety of products to be distributed per person. The Court found that the quantities distributed per person in each Member State and among the charitable organisations of the same Member State, differ considerably. Such a diverse approach increases the risk of negligible impact and leads to unequal treatment between final recipients of the aid (see **Box 11**). **Annex III** shows the products and quantities allocated by Member State and per final recipient for the annual plan 2005, for which data on final recipients are available.

BOX 11**EXAMPLES OF QUANTITIES OF PRODUCTS DISTRIBUTED PER PERSON**

Spain: Distribution statistics for the 2007 plan show that on average 49,88 kg of products per registered recipient were distributed; with a minimum of 28,24 kg/person in one food bank and a maximum of 89,16 kg/person in another.

Italy: Two organisations active in the same area distributed the following quantities of pasta to their beneficiaries:

Organisation	2006	2007
A	1,71 kg/person	9,68 kg/person
B	2,29 kg/person	14,44 kg/person

Poland: The annual average distribution per person (2006) was:
24,95 kg by one designated organisation;
12,59 kg by another organisation.

A third organisation distributed 6,72 kg per person in the region of Dolnoslaskie, while in the region of Lodzkie it distributed 78,03 kg per person.

THE PROGRAMME'S ACTUAL IMPLEMENTATION: ARE THE PROCEDURES BEING APPLIED AS INTENDED?

SHORTCOMINGS IN ADMINISTRATIVE AND ACCOUNTABILITY PROCEDURES

NO OPERATIONAL SUB-OBJECTIVES

- 48.** Member States and the Commission share the responsibility to ensure that the programme is effective. Article 27 of the Financial Regulation (EC, Euratom) No 1605/2002²⁵ provides among others that specific, measurable, achievable, relevant and timely objectives shall be set for all sectors of activity covered by the EU budget.
- 49.** The Court found that the objectives stipulated by the governing Community regulations, which are essentially high-level global objectives, have not been further developed and detailed into workable, measurable targets or sub-objectives.
- 50.** Given this vagueness in the objectives, it is not surprising that, notwithstanding the legal obligation²⁶, neither the Commission nor the Member States have set any performance indicators to monitor the achievement of objectives²⁷.

²⁵ OJ L 248, 16.9.2002, p. 1.

²⁶ Article 27 of Regulation (EC, Euratom) No 1605/2002, Financial Regulation, provides that achievement of objectives shall be monitored by performance indicators for each activity and information shall be provided by the spending authorities to the budgetary authority. Such information, as referred to in Article 33(2)(d), shall be provided annually and at the latest in the documents accompanying the preliminary draft budget.

²⁷ In some Member States visited the opinion was expressed that the social objectives set by the Community regulations are more of a 'philosophical nature' than real measurable objectives.

MANAGEMENT INFORMATION COMMUNICATED TO THE COMMISSION

- 51.** Community regulations require that Member States transmit to the Commission a report on the implementation of the plan not later than 30 of June each year (n+1). It should provide important information on the implementation of the plan and its verification²⁸.

²⁸ The Report should indicate the amounts of products withdrawn from intervention stocks, the type, quantity and value of goods distributed, the transport and transfer costs and the number of recipients. The report should also specify the verification measures applied and the type and number of checks carried out, the results obtained and any cases of penalties imposed. It should also include the number of recipients over the course of the year (Article 10 of Regulation (EEC) No 3149/92).

52. The Court examined the reports required to be sent by the Member States for the period under audit and found that reports are sometimes late or incomplete. Additionally, there was no evidence that the Commission makes a proper analysis and use of them.

²⁹ In one Member State, the auditors also found errors in the number of recipients communicated by the charitable organisations.

53. The auditors also found that the figures on final recipients provided in the report are in many cases estimations made by the charitable organisations and are not based on common standards or definitions of beneficiaries or criteria (recipients are recorded irrespectively of the frequency and the type and quantity of food received)²⁹.

ESTIMATION OF BUDGETARY APPROPRIATIONS AND ALLOCATION OF RESOURCES BETWEEN MEMBER STATES

54. The Court analysed the procedure used by the Commission to establish the budgetary appropriations necessary for the implementation of the programme and the allocation of resources amongst Member States.

55. The budgetary appropriations are allocated to the Member States based on two criteria:

- (a) the first is the needs communicated by the Member States plus the administrative costs (1 %) and the transport costs (4 % and 4,5 % from 2008); and
- (b) the second is the population considered 'at risk of poverty', as a percentage of the entire population of each Member State.

56. Taking into consideration both criteria the final allocations to the Member States are adjusted to the available budgetary appropriations. However, the second criterion does not necessarily result in the most effective use of the resources over the EU as a whole. Those classified under this category in a relatively high income country are likely to be better off than many people falling outside the classification in countries with low income per capita.

- 57.** Notwithstanding the provisions of the Regulation³⁰ that Member States' reports on the execution of the annual plans are taken into consideration when allocating resources among the Member States, the Court found evidence that this had been done in only one case. Additionally, the criteria used to allocate resources do not consider elements of the population not included in the statistical definition, e.g. non-registered immigrants and refugees.
- 58.** With regard to the annual needs notified to the Commission by the Member States, in general they are estimations fixed at the higher level of the managing bodies, without necessarily consulting the charitable organisations involved. This means that the resources requested are not based on real needs and rather reflect anticipated possible allocations.

³⁰ Article 2(1) of Regulation (EEC) No 3149/92 stipulates that for the purposes of allocating the resources among Member States, the Commission shall take account of the best estimates of the number of most deprived persons in the Member States concerned and of how operations were carried out and the uses to which resources were put in previous financial years, on the basis in particular of the reports provided for in Article 10 of the same Regulation.

BOX 12
NEEDS AND ALLOCATION OF RESOURCES

The needs are expressed in quantities of products in intervention stocks and their value is estimated by the Commission using the buying-in price.

The table below shows the needs expressed by the participating Member States in financial terms and the total financial resources made available by the Commission (administrative and transport cost included).

Needs of Member States compared to allocations:

Year	2006	2007	2008
Number of participating Member States	15	18	19
Estimated needs (million euro)	307,2	338,7	313,9
Allocated financial resources (million euro)	259,4	258,9*	294,5**
Percentage	84%	76,4%	93,8%

* Initial allocation.

** Before the increase of the allocation by 10 million euro decided in February 2008.

- 59.** The Court compared the needs notified by the Member States with the financial allocations made and also analysed (see **Annex IV**) the quantities of products in intervention stocks requested, as needed for the implementation of the plans, and those allocated by the Commission. The amounts allocated in the last 3 years were lower than requested (see **Box 12**). In relation to products and quantities, the Member States very often did not obtain what they demanded. In addition certain Member States were allocated products they initially did not request (e.g. butter and sugar in 2006 and 2007) and were not allocated products they did request (e.g. rice and butter in 2007). This calls into question the effectiveness of the programme in meeting expected needs.

TENDERING PROCEDURES NEED IMPROVING AND HARMONISING

- 60.** For the procurement of the final products to be distributed, the competent national authorities are required to issue an invitation to tender. This procedure is valid for the two main types of supplies necessary for the implementation of the plan:
- (a) products withdrawn from intervention stocks in unprocessed form or after packaging and/or processing; and
 - (b) final products mobilised on the market and paid for either in the form of products withdrawn from intervention stocks (bartering) or in monetary value.
- 61.** The Court analysed the procedures applied for the procurement of the final products to be supplied to charitable organisations for distribution in the Member States audited and examined a sample of tenders organised in the last years both for using products available in the intervention stocks and for direct purchase of products on the market.

INCONSISTENT APPLICATION OF LEGAL BASE AT MEMBER STATE LEVEL

- 62.** Certain regulatory requirements concerning the tendering procedures to be applied are set in Regulation (EEC) No 3149/92 (e.g. type of products to be mobilised on the market, content of the invitation to tender, restrictions, etc.). The same Regulation requires that invitations to tender shall guarantee equal access to all operators established in the Community.
- 63.** Directive 2004/18/EC of the European Parliament and of the Council³¹ establishes the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. In addition specific Community Regulations are in force for the sale of products held by intervention agencies³². However, neither Regulation (EEC) No 3730/87 nor Regulation (EEC) No 3149/92, as regularly amended, make any precise reference to the legal basis for the tenders to be organised by the Member States.
- 64.** The Court's auditors found that tendering procedures are organised by all Member States audited. Member States carry out the tendering procedures on the basis of the national legislation under conditions which do not always guarantee the transparency and equal access of operators at EU level.

³¹ OJ L 134, 30.4.2004, p. 114.

³² E.g. Commission Regulation (EEC) No 2131/93 of 28 July 1993 laying down the procedures and conditions for the sale of cereals held by intervention agencies (OJ L 191, 31.7.1993, p. 76).

³³ The ratio for exchange transactions reached 85 %, while the ratio for direct purchase is estimated at 94 %.

IT IS ECONOMICALLY MORE ADVANTAGEOUS TO BUY THE PRODUCTS ON THE MARKET THAN TO USE INTERVENTION STOCKS AS A PROXY FOR PAYMENTS

- 65.** The Court found that, in general, more advantageous prices are obtained in cases of direct purchase of products on the market, compared with using intervention stocks as a proxy for payment for the same products at the same time. For example, in 2007 in Poland, under the same tender procedure companies were invited to submit their bids for delivery of a product (a) in exchange for butter from intervention stocks and (b) via direct purchase. The comparison of the results shows that the price for the direct purchase was lower by about 10 %³³.

- 66.** The Commission has detailed information on the market price of products in the context of the intervention mechanism³⁴. However, in the context of the food programme for deprived persons the governing rules³⁵ do not foresee that the competent services of the Commission are informed about the prices and conditions achieved by the tendering procedures taking place in the Member States. As a result the Commission has no assurance that the most advantageous terms have been obtained.

³⁴ The Commission follows and analyses market prices for a number of products in the context of adopting the invitation to tender procedures for the sale of agricultural products held by intervention agencies and the fixing of the minimum sale prices to be adopted by the corresponding management committee. Market prices are also published by Eurostat regularly.

TENDER PROCEDURES APPLIED BY THE MEMBER STATES DIFFER CONSIDERABLY

- 67.** The Court found that national rather than EU tendering procedures are applied, with the result that they differ considerably between Member States and even within the same Member State, where more than one service is responsible for organising the tenders (Italy, France). In certain instances EU provisions are not respected. The differences concern important points of the tendering procedure such as the publicity given to the invitations to tender, the deadline for the submission of the offers, the guarantee lodged for the participation of the tenderers, the minimum number of participants and the evaluation methods and criteria used for awarding the contract (see **Box 13**).

³⁵ The obligation of the Member States to send the Commission the models of the invitations to tender (Article 4(4) of Regulation (EEC) No 3149/92) was abolished by Commission Regulation (EC) No 1127/2007 (OJ L 255, 29.9.2007, p. 18).

BOX 13

DIFFERENCES IN TENDER PROCEDURES AND CONDITIONS BETWEEN MEMBER STATES AUDITED

	Spain	France ³⁶	Italy ³⁷	Poland
Publication in OJ	No	Yes	PA1: Yes PA2: No	No
Submission deadline (days)	15	PA1: 22 PA2: 45	PA1: 8–19 PA2: 10	20
Participation guarantee	2%	PA1: 5% PA2: 5 euro/tonne	PA1: 10% PA2: 15 euro/tonne	50 000 PLN (14 200 euro)
Minimum number of participants	No	No	Yes (2)	No
Number of tenderers	1–5	PA1: 6–7 PA2: 3–4	2–4	1–9
Evaluation of prices vs. market	No	PA1: No PA2: Yes	Acceptable prices/ quantities are indicated in the invitation to tender	No

³⁶ France: Paying Agency 1: ONIEP (Office National Interprofessionnel de l'Élevage et de ses Productions); Paying Agency 2: ONIGC (Office National Interprofessionnel des Grandes Cultures).

³⁷ Italy: Paying Agency 1: AGEA (Agencia per le Erogazioni in Agricoltura); Paying Agency 2: Ente Nazionale Risi.

- 68.** The auditors found weaknesses in the tender procedures examined, such as limited publicity of the tender invitations, low number of participants — which in some cases was just one — short time given between publication and the closing date for the submission of offer. Additionally, the evaluation of the offers and the award of contracts are based principally on comparative data of the offers received, with no systematic comparison with other sources of information such as market prices.
- 69.** As such, the processes followed do not ensure the openness of the tenders, the broadest competition and that the best conditions and prices are obtained. An analysis of the tenders examined in certain Member States has shown that the contracts for several products were awarded to a limited number of companies over several years.
- 70.** The abovementioned examples illustrate the risk that the most advantageous conditions are not achieved, particularly when bartering arrangements are applied. In such cases, two constraining factors apply:
- (a) the nature of the bartering arrangements limit the number of parties potentially interested in participating; and
 - (b) the evaluation of the offers is difficult insofar as the paying agency cannot easily determine the expected yields which could be considered acceptable.

REFORM PROPOSAL: A RECENT COMMISSION INITIATIVE AND IMPACT ASSESSMENT OF THE PROGRAMME

- 71.** A detailed analysis of the scheme was undertaken by the Commission starting in February 2008 for the preparation of a proposal for the reform of the programme. An inter-service steering group was set up, whereby 17 directorates-general were invited to participate, and a broad consultation with the Member States, the charitable organisations, academic experts in the field and a public online survey took place.

72. As a result the Commission adopted in September 2008 a proposal for the amendment of the Council Regulation³⁸ and published an impact assessment report on the scheme. This is expected to lead to a new legal framework for the 2010 programme.

³⁸ Proposal for a Council Regulation COM(2008) 563/3.

73. The main elements of the Commission proposals are:

- (a) two sources of supply: intervention stocks or products directly purchased from the market, with priority given to the use of suitable intervention stocks;
- (b) wider variety of foods to be distributed: the products distributed would no longer be limited to those for which intervention applies;
- (c) long-term perspective: in order to enhance its efficiency, the Community food distribution plan would be established for a three year period;
- (d) clearer priorities: Member States would base their aid requests on national food distribution programmes, setting out their objectives and priorities;
- (e) co-financing: the introduction of co-financing would underpin the cohesion dimension of the scheme, ensure proper planning and reinforce synergies between the various actors;
- (f) reinforcing monitoring and reporting: reporting obligations at various levels would be increased.

³⁹ CAP rules and especially those for the market support measures imply certain difficulties already identified by the Commission like multiannual planning, which is hardly compatible with EAGF financing, and the impossibility of transferring non-used appropriations to the following years.

74. The Court recognises the benefit of these Commission proposals, some of which, if implemented, would help to remedy certain weaknesses identified by this audit such as the need for better targeting the EU aid, the inclusion of the programme in a broader social policy, the enlargement of the variety of products to be distributed and the need for improving management and administrative systems, especially tendering procedures. However, the Court emphasises that the reform of most of the markets under the CAP and the declining level of the intervention stocks in recent years imply that there is a need to reflect on the opportunity of continuing to finance this measure through CAP expenditure³⁹.

- 75.** In this respect the Court also wishes to draw attention to the fact that the programme as implemented does not 'give' any right of the deprived persons to EU aid. This is not in line with the support provided traditionally by the CAP to the agricultural community. Furthermore, the fact that market purchases would make no distinction between domestic and imported products further weakens the effect of the programme in terms of market intervention, as a measure directly supporting the purchase of imported products is not in line with the objectives of the CAP.



Source: Charitable Organisations.



Source: Charitable Organisations.

CONCLUSIONS AND RECOMMENDATIONS

DO THE OBJECTIVES OF THE PROGRAMME REMAIN VALID AND IS THE APPROACH APPROPRIATE?

THE PREDOMINANTLY SOCIAL OBJECTIVE REMAINS VALID, ALTHOUGH THE LINK WITH INTERVENTION STOCKS AND CONSEQUENTLY WITH AGRICULTURAL EXPENDITURE HAS BECOME TENUOUS, ...

- 76.** Food aid for deprived persons was first introduced in 1987 as a reaction to conditions faced by deprived persons during a particularly harsh winter. Although it had the twin objectives of making a 'significant' contribution to the well-being of the most deprived citizens and the stabilisation of agricultural markets through the disposal of part of the substantial intervention stocks, its primary objective was considered to be a social measure. This was acknowledged in the evaluation of the measure published by the Commission in 1998. The measure was considered appropriate for implementation 'on a durable basis until the stocks have been run down to a normal level'.
- 77.** The budgetary authorities consider that there is still a need for the aid as a social measure. In effect, it is estimated that some 16 % of the population of the Union accounting for some 80 million citizens fall into the definition of deprived persons used by the Commission. A European Parliament declaration in 2006 called for maintaining and increasing the aid as part of the efforts to reduce poverty.
- 78.** The Commission's reform proposal of September 2008 intends to improve the implementation and sound financial management of the programme and contains elements, which, if implemented, will remedy certain weaknesses identified by this report. However, the reform proposes to continue using agricultural funds for a measure, which is not targeted to farmers or to the farming community and with several characteristics such as multiannuality and the non-compulsory nature of support to deprived persons, which are not compatible with the CAP and especially EAGF financing.

RECOMMENDATION 1

The Commission should consider whether it is appropriate to continue financing such a measure from the Common Agricultural Policy.

**... AND INTEGRATION WITH SOCIAL POLICIES
AND COORDINATION WITH SIMILAR MEASURES
WOULD ENHANCE THE APPROACH**

- 79.** In general the programme has operated with insufficient coordination and cooperation with other key actors for social actions in the Member States. Such cooperation is necessary for better understanding and meeting the needs of the deprived persons and the charitable organisations implementing the programme.

RECOMMENDATION 2

The Commission should encourage Member States to take the necessary steps to embed the programme in the social policy framework and improve coordination and cooperation with other key actors for social actions in order to increase the synergy between bodies experienced in managing such programmes.

**ARE THE MEANS COMMENSURATE WITH THE OBJECTIVES
SOUGHT AND ADEQUATELY IMPLEMENTED?**

**PRIORITIES AND TARGETING OF THE RECIPIENTS
WOULD INCREASE THE IMPACT OF THE PROGRAMME, ...**

- 80.** The measure was introduced primarily to alleviate the difficult situation of the most deprived persons, it was not designed to eliminate all food poverty. The impact of the scheme is limited in global terms since it offers the equivalent of one meal per month to its beneficiaries.

- 81.** There are no priorities established within the category of deprived persons to specifically target the aid. Moreover, the charitable organisations that manage the programme at operational level, mostly staffed by volunteers, address a target group which is not sufficiently stable to facilitate full accountability for the aid received.

RECOMMENDATION 3

In order to increase the impact of the measure, the Commission should define workable priorities to select the recipients and intermediaries of the aid, taking due account of the specificities of delivery mechanisms involving voluntary bodies and volatile target groups to which generally accepted administrative and control mechanisms are difficult to apply.

...THE VARIETY OF PRODUCTS DISTRIBUTED IS CONSTRAINED BY THE PROGRAMME'S LINK TO PRODUCTS ELIGIBLE FOR PUBLIC STORAGE MEASURES, ...

- 82.** Legal provisions allow the purchase of food products on the Community market in case intervention stocks are temporarily not available for free distribution to deprived persons. However, food thus purchased on the market must belong to the same product group as the one in intervention stocks, which limits the choice of products available for distribution.

RECOMMENDATION 4

The regulatory restriction of foods for distribution to products eligible for intervention storage should be reconsidered in order to increase the diversity, complementarity and nutritional value of the food provided.

... AND DISTRIBUTION VARIES WIDELY

- 83.** There is a wide variety of systems applied in the distribution chain from the managing authorities to charitable organisations and to deprived persons. There are no common standards, guidelines at EU or national level concerning the quantity and variety of products to be distributed per person. This increases the risk of low impact which may lead to an unequal treatment of the recipients of the aid.

RECOMMENDATION 5

In order to increase the impact of the aid, and to ensure a more equal treatment of recipients, the Commission should consider introducing a level of standardisation consistent with the characteristics of the charitable organisations and of the target group.

ARE THE PROCEDURES BEING APPLIED AS INTENDED?

MANAGEMENT AND MONITORING PROCEDURES NEED TO BE IMPROVED, ...

- 84.** The overall objectives of the programme have not been translated into specific, measurable and achievable targets or sub-objectives either by the Commission or the Member States. As the implementation reports of the Member States have, in several cases, been incomplete or contained inconsistent data, the management information available to the Commission on the progress towards the programme's overall objectives is not sufficiently reliable.

RECOMMENDATION 6

The Commission should encourage Member States to develop specific, measurable, achievable, relevant and timed objectives for the implementation of the programme as well as to define performance indicators to monitor the achievement of objectives. Furthermore, the Commission should review the reporting system of the scheme in order to ensure that accurate and timely information on the target group and on implementation is available.

... AND TENDERING PROCEDURES NEED IMPROVING AND HARMONISING

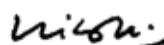
- 85.** Considerably different tendering procedures are applied in different Member States, which do not guarantee equal access to all EU operators and do not ensure the broadest competition nor that the best conditions and prices are obtained. Furthermore, bartering arrangements using intervention stocks are inappropriate and not always cost-effective.

RECOMMENDATION 7

In order to increase the openness of competition and to ensure that the best prices on the market are achieved, the Commission should better define the legal basis as well as implementing rules for the procurement of food products for deprived persons. In addition, the bartering arrangements should be discontinued. Consideration should be given to the disposal of intervention stocks on the market and the resultant proceeds to be used as assigned revenue to purchase the required final products.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 14 May 2009.

For the Court of Auditors



Vítor Manuel da Silva Caldeira
President

POPULATION AT RISK OF POVERTY¹

Member State (MS)	Total population (million)	Population at risk of poverty (%)	Population at risk of poverty (million)	Participating MS Population at risk of poverty (million)	Percentage of budget
Belgium	10,511	15%	1,577	1,577	3,00%
Bulgaria	7,719	15%	1,158	1,158	2,20%
Czech Republic	10,251	10%	1,025	1,025	1,95%
Denmark	5,427	12%	0,651		
Germany	82,438	13%	10,717		
Estonia	1,345	18%	0,242	0,242	0,46%
Ireland	4,209	20%	0,842	0,842	1,60%
Greece	11,125	20%	2,225	2,225	4,23%
Spain	43,758	20%	8,752	8,752	16,63%
France	62,886	13%	8,175	8,175	15,53%
Italy	58,752	19%	11,163	11,163	21,21%
Cyprus	0,766	16%	0,123		
Latvia	2,295	19%	0,436	0,436	0,83%
Lithuania	3,403	21%	0,715	0,715	1,36%
Luxembourg	0,460	13%	0,060	0,060	0,11%
Hungary	10,077	13%	1,310	1,310	2,49%
Malta	0,404	15%	0,061	0,061	0,12%
Netherlands	16,334	11%	1,797		
Austria	8,266	12%	0,992		
Poland	38,157	21%	8,013	8,013	15,23%
Portugal	10,570	20%	2,114	2,114	4,02%
Romania	21,610	18%	3,890	3,890	7,39%
Slovenia	2,003	12%	0,240	0,240	0,46%
Slovakia	5,389	13%	0,701		
Finland	5,256	12%	0,631	0,631	1,20%
Sweden	9,048	9%	0,814		
United Kingdom	60,393	18%	10,871		
TOTAL	492,852	16%	79,292	52,627	100,00%

¹ Eurostat definition: Rate of risk of poverty (threshold: 60 % of median equivalent income after social transfers).

Source: Eurostat, July 2006.

BUDGETARY APPROPRIATIONS AND ALLOCATION AMONG THE MEMBER STATES

Budget item 05 02 04 01	2005 (euro)	2006 (euro)	Increase 2005/2006	2007 (euro)	Increase 2006/2007	2008 (euro)	Increase 2007/2008	
Budgetary appropriations	216 000 000	264 000 000	22,2%	274 000 000	3,8%	307 000 000	12,0%	
Member State	Allocation 2005 (euro)	Allocation 2006 (euro)	Increase 2005/2006	Allocation 2007 (euro)	Increase 2006/2007	Allocation 2008 (euro)	Increase 2007/2008	Percentage of 2008 allocation
Belgium	3 047 791	3 064 940	0,6%	5 817 428	89,8%	8 461 691	45,5%	2,8%
Bulgaria						7 007 310		2,3%
Czech Republic						155 443		0,1%
Estonia		355 874		324 813		192 388	-40,8%	0,1%
Ireland				217 997	-38,7%	155 965	-28,5%	0,1%
Greece	5 704 637	7 127 822	24,9%	6 689 132	-6,2%	13 228 830	97,8%	4,3%
Spain	42 544 686	53 793 470	26,4%	50 340 744	-6,4%	50 419 083	0,2%	16,5%
France	48 620 337	48 059 949	-1,2%	49 940 164	3,9%	50 982 533	2,1%	16,7%
Italy	60 294 489	73 538 420	22,0%	70 764 888	-3,8%	69 614 288	-1,6%	22,8%
Latvia		2 096 236		18 446	-99,1%	153 910	734,4%	0,1%
Lithuania		2 489 508		3 273 261	31,5%	4 456 991	36,2%	1,5%
Luxembourg	68 537	34 959	-49,0%	80 707	130,9%	81 091	0,5%	0,0%
Hungary		6 764 115		7 896 638	16,7%	8 169 224	3,5%	2,7%
Malta	347 642	401 030	15,4%	384 898	-4,0%	378 242	-1,7%	0,1%
Poland	35 504 167	43 408 602	22,3%	42 884 522	-1,2%	49 971 042	16,5%	16,4%
Portugal	12 527 718	13 306 532	6,2%	14 904 058	12,0%	13 182 946	-11,5%	4,3%
Romania				16 649 889		24 258 046	45,7%	8,0%
Slovenia		1 334 827		1 929 341	44,5%	1 499 216	-22,3%	0,5%
Finland	2 825 645	3 637 860	28,7%	2 709 509	-25,5%	2 741 323	1,2%	0,9%
TOTAL	211 485 649	259 414 144	22,7%	274 826 435	5,9%	305 109 562	11,0%	100,0%
Population at risk of poverty (million)	40,61	42,29		47,96		52,63		
Appropriations per person at risk of poverty (euro/person)	5,32	6,24		5,73		5,83		

Source: Commission's Regulations (as amended).

**PRODUCTS ALLOCATED AND FINAL RECIPIENTS
ANNUAL PLAN 2005**

Member State	Recipients (million)	Products allocated (tonnes)				Total
		Cereals	Rice	Butter	Milk powder	
	(1)	(2)	(3)	(4)	(5)	(6)
Belgium	0,221	6 000	3 500	318	410	10 228
Greece	n/a	6 972	4 346		2 087	13 405
Spain	0,941	68 721	29 452	9 547		107 720
France	2,509	60 905	31 412		18 143	110 460
Italy	2,300	98 153	22 575	14 446		135 174
Malta	n/a	1 383	553			1 936
Poland	3,594	17 758	26 835	6 772	3 749	55 114
Portugal	0,485	8 588	14 708	2 594	480	26 370
Finland	0,360	15 000			600	15 600
TOTAL	10,410	283 480	133 381	33 677	25 469	476 007

Member State	Recipients (million)	Products allocated per recipient (kg)				Total
		Cereals	Rice	Butter	Milk powder	
	(1)	(2)/(1)	(3)/(1)	(4)/(1)	(5)/(1)	(6)/(1)
Belgium	0,221	27,15	15,84	1,44	1,86	46,28
Greece	n/a					
Spain	0,941	73,03	31,30	10,15	0,00	114,47
France	2,509	24,27	12,52	0,00	7,23	44,03
Italy	2,300	42,68	9,82	6,28	0,00	58,77
Malta	n/a					
Poland	3,594	4,94	7,47	1,88	1,04	15,34
Portugal	0,485	17,71	30,33	5,35	0,99	54,37
Finland	0,360	41,67	0,00	0,00	1,67	43,33
TOTAL	10,410	27,23	12,81	3,24	2,45	45,73

NEEDS COMMUNICATED BY THE MEMBER STATES AND THE COMMISSION'S ALLOCATION OF INTERVENTION STOCKS

Plan 2006 (including amending Commission Regulation (EC) No 153/2006)

(in tonnes)

Member State	Cereals			Rice			Butter			Sugar		
	Needs (a)	Allocation (b)	(b)/(a)	Needs (a)	Allocation (b)	(b)/(a)	Needs (a)	Allocation (b)	(b)/(a)	Needs (a)	Allocation (b)	(b)/(a)
Belgium	9 000	12 121	135%	2 800	2 800	100%	300	450	150%			
Ireland							120	120	100%			
Greece	35 000		0%	5 000	7 500	150%	3 250		0%			
Spain	70 000	73 726	105%	25 000	28 000	112%	15 000	13 560	90%		2 000	
France	68 959	75 851	110%	55 129	55 000	100%		10 564				
Italy	100 000	115 253	115%	15 000	20 000	133%	16 000	6 833	43%		3 500	
Latvia	35 000	19 706	56%									
Lithuania	16 000	16 000	100%	5 000	5 000	100%						
Hungary	100 000	63 587	64%									
Malta	2 500	1 877	75%	1 000	600	60%						
Poland	80 000	85 608	107%	30 000	20 000	67%	7 600	7 230	95%		4 847	
Portugal	20 000	17 287	86%	17 600	14 000	80%	5 000	2 743	55%		1 700	
Slovenia	1 350	1 262	93%	540	600	111%	135		0%		300	111%
Finland	18 500	18 500	100%								500	
TOTAL	556 309	500 778	90%	157 069	153 500	98%	47 405	41 500	88%	270	12 847	4 758%

Other products declared and not allocated:

Olive oil (Portugal 4 000 tonnes).

Beef (Italy 5 000 tonnes, Malta 60 tonnes, Portugal 1 500 tonnes, Slovenia 270 tonnes and Finland 1 000 tonnes).

Skimmed powder milk (Belgium 400 tonnes, France 18 302 tonnes, Luxembourg 18 tonnes, Malta 100 tonnes, Poland 4 750 tonnes, Portugal 1 500 tonnes, Slovenia 135 tonnes and Finland 500 tonnes).

Plan 2007 (including amending Commission Regulation (EC) No 937/2007)

(in tonnes)

Member State	Cereals			Rice			Butter			Sugar		
	Needs (a)	Allocation		Needs (a)	Allocation		Needs (a)	Allocation		Needs (a)	Allocation	
		(b)	(b)/(a)		(b)	(b)/(a)		(b)	(b)/(a)		(b)	(b)/(a)
Belgium	12 000	12 000	100%	2 800		0%	1 115		0%	2 000	2 000	100%
Czech Republic	270		0%				26		0%	50		0%
Estonia	3 000	3 000	100%	2		0%	2		0%			
Ireland							80	80	100%			
Greece		11 760		30 000	2 755	9%						
Spain	100 000	110 000	110%	17 000		0%	15 000	12 000	80%	5 000	6 443	129%
France	66 330	82 641	125%	51 940	23 641	46%	11 700	6 500	56%	3 338	3 338	100%
Italy	100 000	122 465	122%	15 000	20 000	133%	25 000	3 570	14%	6 000	6 847	114%
Latvia	3 280	173	5%									
Lithuania	12 000	12 000	100%	5 000		0%				3 000	2 760	92%
Hungary	52 000	52 000	100%							900	900	100%
Malta	2 500	1 550	62%	1 000		0%						
Poland	100 000	120 433	120%	20 000		0%	13 000	2 400	18%	15 000	11 522	77%
Portugal	22 000	20 000	91%	17 500	14 000	80%	5 000	3 160	63%	2 500	1 435	57%
Romania	not defined	96 712								not defined	11 986	
Slovenia	9 000	3 610	40%	3 000		0%				1 500	653	44%
Finland	16 500	14 651	89%					422		500		0%
TOTAL	498 880	662 995	133%	163 242	60 396	37%	70 923	28 132	40%	39 788	47 884	120%

Other products declared and not allocated:

Beef (Italy 5 000 tonnes, Malta 60 tonnes, Portugal 1 500 tonnes and Finland 1 000 tonnes);
Skimmed powder milk (Czech Rep. 10 tonnes, Greece 3 514 tonnes, Hungary 800 tonnes, Malta 100 tonnes, Portugal 2 000 tonnes, Slovenia 800 tonnes and Finland 500 tonnes).

Plan 2008 (including amending Commission Regulation (EC) No 182/2008)

(in tonnes)

Member State	Cereals			Rice			Butter			Sugar		
	Needs (a)	Allocation (b)	(b)/(a)	Needs (a)	Allocation (b)	(b)/(a)	Needs (a)	Allocation (b)	(b)/(a)	Needs (a)	Allocation (b)	(b)/(a)
Belgium	16 000		0%	2 000		0%				3 000	4 154	138%
Bulgaria	20 000		0%	12 000		0%				6 500	6 385	98%
Czech Republic	360		0%				24			67	67	100%
Estonia	1 800		0%									
Greece	25 000		0%									
Spain	110 000		0%	12 000		0%	13 000			6 500	6 500	100%
France	97 044		0%	39 280		0%	13 966			4 193	3 718	89%
Italy	120 000		0%				25 000			7 000	7 000	100%
Latvia	1 440		0%									
Lithuania	25 000		0%	7 000		0%				5 000	2 889	58%
Hungary	60 000		0%							1 800	1 620	90%
Malta	2 500		0%	500		0%				1 800	397	22%
Poland	200 000		0%				11 000			18 130	15 552	86%
Portugal	22 000		0%	17 500		0%	5 000			3 000	1 707	57%
Romania	200 000		0%							20 000	15 898	79%
Slovenia	2 000		0%	800		0%				900	806	90%
Finland	16 000		0%									
TOTAL	919 144	0	0%	91 080	0	0%	67 990	0	0%	77 890	66 693	86%

Other products declared and not allocated:

Olive oil (Greece 2 285 tonnes).

Beef (Belgium 664 tonnes and Malta 60 tonnes).

Skimmed powder milk (Belgium 1 603 tonnes, Czech Rep. 13 tonnes, Greece 3 435 tonnes, Lithuania 700 tonnes, Luxembourg 44 tonnes,

Hungary 1 000 tonnes, Malta 200 tonnes, Portugal 2 000 tonnes, Slovenia 500 tonnes and Finland 500 tonnes).

REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

II.

Since the beginning, the Most Deprived programme was fully embedded within the Common Agricultural Policy (CAP). The two objectives of the programme, as the Court recalls, were already at that time to contribute to food security of the most deprived among the citizens of the Union, and to ensure an alternative outlet for the intervention stocks. Both aims find their justification in the Treaty and are in line with the objectives of the CAP enumerated in Article 33.

Over the years the food distribution plans implemented under the scheme have successfully contributed to achieve both objectives.

III.

The state of EU public stocks varies with market developments and price levels. While intervention has been extensively reformed, it remains operational for a whole range of main agricultural products including cereals, skimmed milk powder and butter. The decline in intervention stocks over the last few years has stopped in 2008. Indeed, intervention stocks for certain products such as cereals and butter are currently building up again.

V.

For the last four years, as intervention stocks have decreased, the annual plans implementing this programme had to rely to a larger extent on market purchases. However, this trend of the last years has been stopped recently and intervention stocks for certain products are increasing again.

REPLY OF THE COMMISSION

A large majority of Member States supports the measure, as well as the European Parliament which has expressed its wish that the programme remains financed by the EAGF budget¹.

VI.

The operational effectiveness of the scheme is not to be judged on the number of meals offered per beneficiary but on the extent to which it provides a stable outlet for products from intervention stocks and reliable source of foodstuffs for charities involved in the assistance to most deprived people. Against this background, the programme has proven successful as shown by its share in total food aid being distributed (please see Box 5 of the Court's report). All the stakeholders recognise that the impact of the scheme is substantial.

Furthermore, the measure has had a powerful leverage effect in allowing the development of networks of charities and facilitating the coordination with public authorities.

VII.

The Commission considers that globally the system is satisfactorily managed although some further improvements are possible. The Commission has tabled a proposal to reform the programme in 2008 which addresses several suggestions of the Court².

The Commission has already modified the methodology to calculate Member States' allocations in the 2009 annual plan to take into account the relative level of wealth (Gross National Income expressed in Power Purchasing Standard per capita), with the unanimous support of participating Member States.

As regards the tendering procedures, Commission audits conclude to the compliance of the procedures applied by the Member States with the EU Public Procurement Directive³. The Impact Assessment accompanying the 2008 reform proposal⁴ contains nevertheless some suggestions to further enhance the publicity of tenders and then increase participation which would be implemented once the proposal is adopted.

The Commission is ready to re-examine current bartering arrangements in the context of the new implementing rules following the adoption of the new Council Regulation currently under discussion.

¹ European Parliament legislative resolution of 26 March 2009 (TA/2009/188) on the proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community (COM(2008)0563 — C6-0353/2008 — 2008/0183(CNS)).

² Proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community (COM(2008) 563 final).

³ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

⁴ Commission Staff Working Document accompanying the Proposal for a Council Regulation amending Regulations (EC) No 1290/2005 on the financing of the common agricultural policy and (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community — Impact Assessment SEC(2008) 2436/2.

REPLY OF THE COMMISSION

INTRODUCTION

5.

Total numbers of people 'at risk of poverty' do not constitute the target group of this measure. According to Article 2(1) of Regulation (EC) No 3149/92, the category of population 'at risk of poverty' is the statistical indicator used in the calculation of the Member States' allocations since it is considered the best available estimate of the number of most deprived persons. The notion of population 'at risk of poverty' is based on criteria agreed in December 2001 at the European Council meeting in Laeken.

For the 2009 annual plan, the Commission has already used a new method combining relative (GNI — Gross National Income — per capita expressed in Purchase Power Standards) and absolute (population at risk of poverty) indicators.

The population actually targeted by this scheme is defined by Member States' administrations in close cooperation with charities, and corresponds to individuals and families in need of food assistance.

7.

One of the aims of the programme is to secure a reliable and stable source of food for the charities engaged in providing food assistance to the most deprived persons of the Community. In this respect, Box 5 of the Court's report provides clear evidence of the programme's significant impact since it provides between 30 and 70 % of the total food distributed in the EU to the most deprived people.

In addition, the programme has a leverage effect on the development of actions by private bodies (charities) and public authorities (at national and local level), as shown in the Impact Assessment accompanying the 2008 Commission proposal to reform the programme.

The Commission considers that a more relevant indicator is the amount in euros per real aid recipient, calculated on the basis of information contained in national reports on implementation.

9.

The Commission considers the increasing number of Member States' participating in the programme as a proof of its added value.

11.

Providing an outlet for intervention stocks is a major objective of the scheme.

Nowadays, most of the intervention products are exchanged against food and less and less processed for distribution to the most deprived. Call for tender procedures are not influenced by the fact that intervention products are either processed or exchanged, but this factor affects the burden of control.

The trend towards extensively processed foods is the result of NGO demands to be supplied with foodstuffs better suited to the living conditions of deprived people and in order to distribute a wider range of products securing a more balanced diet.

REPLY OF THE COMMISSION

OBSERVATIONS

12.

The situation of public stocks changes every year on the basis of market conditions, in particular price levels. While intervention has been extensively reformed over the last few years, it remains operational for a whole range of main agricultural products including cereals, skimmed milk powder and butter, and stocks can rapidly build up again in a situation of low producer prices. In this sense, it is very likely that the 2010 annual plan relies more extensively on intervention stocks than the two previous years.

17.

The EU programme tends to account for a very substantial share of total food distributed by every organisation although the situation varies greatly across charities. An analysis of the importance of the scheme and of its contribution towards the well-being of the most deprived can be found in the Impact Assessment accompanying the proposal for a new Council Regulation.

25.

While it is true that intervention mechanisms have been reformed recently, intervention remains in place for a whole range of major agricultural products such as cereals, skimmed milk powder and butter. Intervention stocks may buildup again in future, in a situation of low producer prices, leading to a more important share of intervention goods in sourcing the scheme. In fact, intervention stocks for certain products are currently increasing again.

26.

The food aid to deprived persons measure keeps a strong link with the CAP as long as it contributes to fulfil the objectives of this policy in particular in the area of market stabilisation.

The Commission proposal for a new Council Regulation seeks to remove the confinement of distributed products to those eligible for intervention.

27.

The Commission does not wish to pre-empt the outcome of the political discussions that are currently taking place following the submission of the Commission proposal for a new Council Regulation.

The Commission would like to underline that an overwhelming majority of Member States consistently vote in favour of the approval of the annual plans.

REPLY OF THE COMMISSION

28.

Since its inception, the scheme has had a two-fold complementary dimension: market stabilisation and social. The cost-efficiency of the scheme is to be assessed against the concurrent fulfilment of both objectives.

The 1998 evaluation study mentioned by the Court was elaborated by an independent consultant. The Commission's quality check of this report includes critical remarks related mainly to its methodology, the robustness of the analysis and the credibility of the results.

The various quotes highlighted by the Court bring forward the social component of the scheme, without nevertheless calling into question its agricultural dimension.

29.

Even if the social dimension of this scheme is duly recognised, the Commission would like to underline that Regulation (EC) No 1234/2007 is a key Regulation of the Common Agricultural Policy, based on Articles 36 and 37 of the Treaty establishing the European Community.

33.

It emerges from the regular meetings that the Commission holds with Member States' authorities and charities as part of its management of the scheme, that there is generally a high level of satisfaction on both sides with the way consultations are conducted at national level.

The Commission agrees however that there is room for improvement and has included in the Impact Assessment accompanying the 2008 Commission proposal for a new Council Regulation suggestions to enhance the link between the scheme and other actions at Member State level, through for example the drawing-up of national food distribution programmes. These would be implemented after the adoption of the new Council Regulation.

34.

The notions of 'potential beneficiaries' and 'target population' are different: while the former is a statistical indicator used exclusively for the calculation of Member States' allocations, the population actually targeted is defined at the appropriate geographical level by Member States' managing authorities in cooperation with charities (Article 1(3) of Regulation (EEC) No 3149/92).

For the 2009 budget allocation of the plan, a new methodology has been used combining the number of people 'at risk of poverty' to the GNI per purchasing power parity for each Member State. This further proves that the number of people at risk of poverty is not a number of potential beneficiaries.

35–36.

The food aid measure does not claim to solve by itself the question of food insecurity in the EU. It is a contribution to the solution of a problem that requires not only the involvement of the Community but also the mobilisation of Member States' authorities at various levels and of the civil society.

In this context, one of the aims of the programme is to secure a reliable and stable source of foodstuffs for the organisations providing food assistance to the most deprived persons.

REPLY OF THE COMMISSION

Therefore, the estimates of the number of meals provided to the aid recipients are not the best indicator of the programme's impact, even if the distribution of approximately 156 million meals per year is to be considered very significant.

The added value of this measure in improving the living conditions of the most deprived is better evidenced by the estimates included in box 5 of the Court's report, according to which the EU scheme provides between 30 and 70 % of the total food distributed in the Community to the most deprived people, depending on the charities and the Member States. This does represent a 'significant contribution towards the well-being of its most deprived persons'.

37.

Nowadays selection criteria and targeting are decided by Member States' administrations in cooperation with charities, the latter having to respect such criteria to be able to participate in the scheme.

The public consultation on the future of the programme that took place as part of the Impact Assessment accompanying the Commission proposal for a new Council Regulation, has revealed a large consensus for not restraining the choice of the population to be helped to certain categories among the most deprived. The Commission's opinion is that, by virtue of the subsidiarity principle, such choice should be left to Member States.

Following the Court's examples in Box 5, the EU scheme provides between 30 and 70 % of the total food distributed in the Community to the most deprived people, depending on the charities and the Member States. This is not negligible.

38–40.

One of the specific features of this scheme is the essential role played by NGOs and charities through their distribution chains and knowledge of the problems affecting the most deprived population of the Community. By virtue of the principle of subsidiarity, it is up to Member States' authorities to determine the appropriate procedures and criteria to designate the organisations taking part in the implementation of annual plans.

In the same line, the selection of food aid recipients falls under the responsibility of Member States by virtue of the principle of subsidiarity.

The Commission proposal for a new Council Regulation includes a more comprehensive reporting system by Member States to the Commission, the details of which would have to be laid down in the corresponding new implementing rules.

41.

Differences in the frequency of the reception of the aid are not a proof of a poor impact of the scheme. The food needs of most deprived individuals vary greatly from case to case and over time. In order to be effective, the scheme requires a considerable degree of flexibility so that it can be adjusted to a broad range of circumstances.

REPLY OF THE COMMISSION

44–45.

Over the years the Commission has adjusted the implementing rules of the scheme in order to soften the criteria on the products to be distributed. A comprehensive description of these adjustments can be found in the Impact Assessment accompanying the Commission proposal for a new Council Regulation.

In the Commission proposal for a new Council Regulation the range of food that may be distributed is no longer confined to the families of products eligible for intervention.

47.

The objective of the measure is not to provide an identical level of aid to all aid recipients as their needs are different too and so are the costs of food across Member States. The absence of uniform quantities distributed per person does not necessarily create a risk of poor impact nor of aid recipients being treated unequally.

49–50.

The Commission will do its utmost within the limits due to the nature and the specificities of this measure, to secure that the new implementing rules after the adoption of the new Council Regulation lay down objectives and indicators according to applicable guidelines.

With this purpose, a series of measurable objectives and harmonised, measurable indicators have been proposed in the Impact Assessment accompanying the Commission proposal for a new Council Regulation.

52.

As foreseen in Article 2 of Regulation (EEC) No 3149/92 with regard to the allocation of resources to Member States, the Commission duly considers the reports transmitted by Member States as part of the monitoring mechanism and in addition to regular contacts with Member States, in particular within the frame of the Management Committee.

Moreover, the Impact Assessment accompanying the proposal for a new Council Regulation presents various findings based on the study of the national reports, such as for example the number of beneficiaries of the aid. This proves that the Commission analyses and makes use of these reports.

53.

In application of the subsidiarity principle, it falls on Member States to fix the definition of beneficiaries best suited to the particular situation of its most deprived population. Therefore, the Commission is of the view that common standards or definition of beneficiaries would not bring about any improvement to the efficiency of the programme.

In the Impact Assessment accompanying the proposal for a new Council Regulation the Commission has expressed its intention to reinforce Member States' reporting obligations. Details are to be laid down in the new implementing rules after the adoption of the new Council Regulation.

REPLY OF THE COMMISSION

56.

For the 2009 plan the Commission has followed a new method for the calculation of national allocations that takes into account the differences in purchasing power between Member States. Details about this calculation are provided in the annex to the Impact Assessment accompanying the proposal for a new Council Regulation.

57.

The Commission takes account of significant under-execution by Member States. The fact that no adjustment was applied during the period under scrutiny (plans 2006–2008) is due to the high level of execution achieved by participant Member States.

The Commission stresses that any calculation method has to be based on official statistics available for all Member States.

58.

The definition of national needs is the responsibility of Member States following their own procedures, in particular consulting involved charities. In this sense, the Commission has always actively encouraged Member States to involve charities in the inception of the programme.

The Commission proposal for a new Council Regulation foresees that Member States co-finance the programme, which will further encourage Member States to secure the necessary matching between requests and effective needs (see Annex 14 to the Impact Assessment accompanying the Commission proposal).

59.

While it is correct that Member States needs cannot always be satisfied at 100 % mainly due to the lack of resources, the Commission makes every effort to meet Member States requests in the largest possible manner.

Member States communicate to the Commission the products they wish to get. These initial requests are discussed both in the framework of the Management Committee and in bilateral contacts. As a consequence the initial requests are adjusted. As an example rice and butter were replaced by other products. However, from this procedure it cannot be concluded that the Member States were allocated products which they did not want. Fact is that Member States accepted that their initial request could not be met and that, in exchange, they have received products which they initially did not demand. Nevertheless, all Member States accepted these decisions and welcomed the products they finally received.

63.

EU and national legislation on public procurement apply to the tenders run in the framework of this scheme, without the need of this legislation being explicitly mentioned in Regulations.

64.

See the Commission reply to paragraph 63.

The Commission has performed 6 audits between 2006 and 2007 without finding any major shortcoming in the procedures followed by Member States to run the tenders. Furthermore, it has found that operators based in a different Member State are granted with supply contracts, which shows that competition between operators from various Member States occurs. Overall, the way Member States conduct the tenders has proven in compliance with the requirements laid down in the EU Directive 2004/18/EC.

REPLY OF THE COMMISSION

65.

One of the objectives of the programme is the disposal of intervention stocks. When available they constitute the priority source of supply for the programme. Furthermore, the disposal of intervention stocks through this scheme enables the Community to save the storage costs that otherwise would have to be borne by the EU budget.

66.

Tenders are run by Member States under their authority. See Commission reply to paragraph 64.

The Commission mainly follows the evolution of market prices for unprocessed agricultural products while the tenders concern food ready for consumption. No operational conclusions can be based on comparisons between both types of prices.

67.

See the Commission reply to paragraph 64.

Directive 2004/18/EC governing the procedures for the award of public works contracts, public supply contracts and public service contracts, is in force in all Member States. Even when, within a Member State, provisions regulating tendering procedures differ, they remain in conformity with the Directive.

Chapter VI of the Directive contains provisions on publicity of the calls. Calls for tender are required to be published in national Official Journals, as well as in the *Official Journal of the European Union*. In some Member States visited by the Court, calls for tender are also publicised via Internet.

Provisions regarding the delays for submission of offers are laid down in Art. 38 of the Directive and can vary according to the modalities of implementation chosen in Article 36.

The criteria to award contracts are the ones described in Article 53: i.e. the most advantageous offer in terms of quantity offered/transport cost, or the lower offer in terms of price.

68.

The Commission too noted the sometimes low number of participants submitting bids but it found no evidence of a link between the low participation and the way the Directive requirements were implemented.

Given the diversity both in terms of quantity and quality of the products to be supplied, it is not possible to compare prices obtained under the calls for tender with market prices. Consequently, no conclusion can be drawn on this basis about the 'quality' of the offers submitted.

69.

The Commission audits also found that several companies were awarded contracts over several years but there is no evidence of a link between the low participation and the way the Directive requirements were implemented.

70.

The scheme since its beginning aimed at withdrawing stocks from intervention, relieving EU expenses on storage costs. This additional economic effect should be taken into account.

REPLY OF THE COMMISSION

(a)

Given the basic link of this programme with intervention stocks, bartering was until recently the core of the scheme.

(b)

Almost all Member States have in place committees to establish bartering references, including those Member States visited by the Court.

74.

While appreciating the Court's positive assessment of various elements of the Commission proposal for a new Council Regulation, the Commission does not wish to pre-empt the outcome of the political discussions currently taking place on this basis.

Further, the Commission would like to stress that the European Parliament's opinion⁵ does not call into question the opportunity to continue to finance this measure through CAP expenditure.

As mentioned in paragraph 25 above, intervention stocks for certain products are increasing under current market conditions.

75.

The Commission is of the view that participation of Member States should remain voluntary.

Setting obligations on the origin of the product would not only pose major control difficulties but would impose a huge administrative burden for Member States' administrations without any improvement of the efficiency of the scheme, rather the contrary.

CONCLUSIONS AND RECOMMENDATIONS

76.

The measure has two complementary objectives: market stabilisation and contributing to the well-being of the most deprived.

The evaluation report to which the Court refers was elaborated by independent consultants and its conclusions should be read taking into consideration the Commission's critical remarks on the quality of the study, in particular with regard to its methodology, the robustness of the analysis and the credibility of the results.

77.

The European Parliament has just released its opinion⁶ supporting with certain amendments the proposal of the Commission for a new Council Regulation adapting the measure to new prevailing conditions.

Decisions to continue implementing the programme have been taken on the merits of the measure on both its social and market stabilisation dimensions.

⁵ European Parliament legislative resolution of 26 March 2009 (TA/2009/188) on the proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community (COM(2008)0563 — C6-0353/2008 — 2008/0183(CNS)).

⁶ See footnote 5.

REPLY OF THE COMMISSION

78.

Although the Commission appreciates the Court's positive assessment about its proposal for a new Council Regulation, it does not wish to pre-empt the ongoing debate at Council level on the appropriate financing of this measure for the future.

The abovementioned EP opinion reflects the support of this institution for the measure to continue to be funded from the Common Agricultural Policy.

Recommendation 1

After having analysed in an extensive way the technical, political and legal elements of the programme (see the Impact Assessment supporting the Commission proposal for a new Council Regulation), the Commission has concluded that the CAP was the appropriate frame for the continuation of the scheme.

79.

The Commission is of the view that the programme is being implemented by Member States with a satisfactory level of coordination and consultation with all relevant actors although further progress in this domain is always to be pursued.

Recommendation 2

For years, the programme has had a powerful leverage effect on the development of food initiatives or related measures by private bodies (charities) and public authorities (Member State and local levels).

Such role can be further promoted. While taking due account of the subsidiarity principle, several options to enhance the link between the scheme and other similar actions were analysed in the context of the Impact Assessment and some of them were included in the Commission proposal for a new Council Regulation.

80.

One of the aims of this measure is to provide charities with a stable and reliable source of foodstuffs for assisting the most deprived persons. In this sense, the impact of the programme cannot be merely assessed on the average number of meals that it provides but on the extent to which it does contribute to the supply of charitable organisations. This aim is largely attained as far as the programme provides between 30 and 70 % of the total food distributed in the Community to the most deprived people, depending on the charities and the Member States.

81.

By virtue of the subsidiarity principle, Member States define the criteria of the population having access to the food aid distributed by this measure.

Recommendation 3

The Commission already analysed this issue in the framework of the Impact Assessment accompanying the proposal for a new Council Regulation. It concluded that the respect of the subsidiarity principle goes along with a higher efficiency of the scheme when the targeting of the beneficiaries remains the Member State's competence. This position is supported by an overwhelming majority of stakeholders and coincides with the result of a public Internet consultation that received more than 14 000 replies.

The Commission's proposal for a new Council Regulation incorporates the obligation for Member States to prepare national food distribution programmes that would include comprehensive information on recipients and charities taking part in the programme. Details will be laid down in the implementing rules after the adoption of the Commission proposal.

REPLY OF THE COMMISSION

82.

Over the years the Commission has adjusted the implementing rules of the scheme in order to soften the criteria on the products to be distributed. A comprehensive description of these adjustments can be found in the Impact Assessment accompanying the Commission proposal for a new Council Regulation.

Recommendation 4

The Commission proposal for a new Council Regulation⁷ includes the removal of this restriction.

83.

By its very nature, such a scheme has to adapt to very different situations in the various participating Member States. For this reason, the variety of systems is an essential prerequisite of the proper functioning of the measure.

The needs of food aid vary hugely between individual aid recipients and over time. The differences in the quantity of food distributed to every individual aid recipient can therefore not be presented as unequal treatment.

The setting of common standards would not necessarily result in improving the impact of the measure that, as proven in Box 5 of the Court's report, is very substantial in the light of the share of food distributed by NGOs sourced from the EU programme.

Recommendation 5

Introducing standards at Community level could hinder the necessary flexibility the programme must preserve in order to adapt to the varied circumstances of the most deprived.

The Commission considers that the way the programme is currently run, with a large element of subsidiarity built in it, attains a significant impact and allows an equal treatment to all the aid recipients.

84.

The Commission, also based on its audits, can claim that Member States implementation is globally satisfactory even if certain areas may improve further.

The method for the allocation of financial resources is transparent and based on the best statistical information available. Year after year, participating Member States endorse this method when voting in favour of the annual plans in the Management Committee.

Recommendation 6

In the Impact Assessment accompanying the proposal for a new Council Regulation, a series of measurable objectives has been proposed. The Commission will consider introducing corresponding performance indicators in the framework of the revision of the implementing rules after the adoption of the new Council Regulation.

The Commission has equally expressed its intention to reinforce Member States' reporting obligations in particular through the new national food distribution programmes, in order to ensure a better follow-up of the scheme and improve its planning and management over time.

⁷ Proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community (COM(2008) 563 final).

REPLY OF THE COMMISSION

85.

Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, provides a common legal basis throughout the EU. The audits carried out by the Commission conclude to the compliance of the call for tenders run by the Member States with the Directive. Differences in modalities found in the Member States are foreseen in the Directive. Sometimes operators take part in tenders organised in other Member States.

Recommendation 7

The Commission already analysed the question of the tendering procedures in the Impact Assessment accompanying the Commission proposal for a new Council Regulation including some ideas for enhancing the EU-wide publicity of the tenders. Detailed rules may be laid down in the new implementing rules after the adoption of a new Council Regulation.

The Commission will examine the proposition of the Court as regards the adaptation of the bartering arrangements without nevertheless preventing the possibility to mobilise intervention stocks as this practice is at the core of the scheme.

European Court of Auditors

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IN THIS REPORT THE COURT MAKES AN ASSESSMENT OF THE MANAGEMENT, THE RESOURCES AND THE IMPACT OF THE EU FOOD PROGRAMME FOR THE MOST DEPRIVED CITIZENS. THE MEASURE WAS FIRST INTRODUCED IN 1987, BY USING AGRICULTURAL PRODUCTS IN PUBLIC INTERVENTION STOCKS, AND IS STILL APPLIED IN CERTAIN MEMBER STATES.

THE REPORT DEMONSTRATES THAT THE OBJECTIVES OF THE PROGRAMME, ESPECIALLY THAT FOR THE 'CONTRIBUTION TOWARDS THE WELL-BEING' OF THE MOST NEEDY REMAIN VALID, AND MAKES A SERIES OF RECOMMENDATIONS AIMED AT INCREASING THE IMPACT OF THE MEASURE.



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