

## NATIONAL PAYING AGENCY

### 1. Summary

This paper focuses on the current situation in New Member States (NMSs) and candidate countries regarding practices, experiences and administrative/organizational aspects of the National Paying Agency (NPA). For these countries, the NPAs were established following EU models in order to facilitate the implementation of agricultural policy reform programmes and the payment of funds within the SAPARD programme. After EU accession, the independent implementation of agriculture policy was replaced by the EU Common Agricultural Policy (CAP). The situation in NMSs before they joined EU was similar to the overall situation in Kosovo's agri-rural sector.

### 2. Common Agricultural Policy funds and principles

Within the scope of the CAP, the financial subsidy is granted from the European Agricultural Guarantee Fund (EAGF) for the current programming period (2007-13), and from the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF). The CAP is based on three principles:

- common market for agricultural products built on common prices;
- preferences for agricultural produce of the EU countries against external competition; and
- financial solidarity – financing from common funds to which everyone pays contributions.

### 3. What is a Paying Agency?

Paying agencies are the authorities and bodies of Member States whose role is to provide sufficient guarantee that:

- the admissibility of claims and compliance with Community rules are checked before payment is authorized;
- the payments effected are correctly and fully recorded in the accounts; and
- relevant documentation is submitted within deadlines and in the way stipulated in Community rules.

Each Member State must forward to the European Commission (EC):

- details of the authorities and bodies it has accredited to make payments;
- where more than one agency is accredited, details of the authority or body responsible for collecting the information to be supplied to the Commission and for promoting harmonized application of Community rules (so-called coordinating agencies);
- the names, status and acts of accreditation of the paying agencies; and
- details of the administrative, accounting and internal audit conditions for payments made within the framework of the CAP to implement Community rules.<sup>1</sup>

Establishment and functioning of the NPA is regulated is required by EU legislation (e.g. Council Regulation (EC) No.1258/1999), and Member States legislation. Each country is independent regarding establishment of its National Paying Agency. Either they do it based in primary legislation (Laws) or secondary legislation (Administrative Direction,

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<sup>1</sup> The clearance of accounts procedure - [http://ec.europa.eu/agriculture/publi/fact/clear/clear\\_en.pdf](http://ec.europa.eu/agriculture/publi/fact/clear/clear_en.pdf), last visited on 12.06.2008.

Regulation, etc.). Usually, they are established by a special law such a Law on Establishment of National Paying Agency, or as in Albania which established a Paying Agency by the Law on Agriculture and Rural Development.

It is a precondition for countries that want to accede to the EU that they must establish a Paying Agency. Chapter 11 (of Agriculture and Rural Development of Negotiations Agenda between EU and the country looking to join EU) covers binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement and control by an efficient public administration are essential for the functioning of the CAP. Running the CAP requires establishing management and quality systems such as a Paying Agency and the integrated administration and control system (IACS), and the capacity to implement rural development measures. Member States must be able to apply EU legislation on direct farm support schemes, and implement the common market organisations for various agricultural products<sup>2</sup>.

Kosovo as a potential future Member State of EU should adopt and implement the *acquis communautaire* as covered in 35 Chapters of negotiations with the EU. Based on this, the establishment of a National Paying Agency by the Government of Kosovo is an obligation under Chapter 11 i.e. a *sine qua non*<sup>3</sup>.

#### **4. Common characteristics of NPAs occurred after their establishment in other countries**

Some characteristics of NPAs recently established in NMSs are as follows:

- NPAs were established several years before the countries joined the EU (e.g. in Poland in 1994, in Lithuania in 1999, in Slovenia in 1999, in Latvia in 2000, in Czech Republic (re-organized) in August 2000, in Cyprus in 2003, and in Slovak Republic in 2003);
- NPAs are budgetary institutions;
- In all recent NMSs, the main objective for establishing these agencies was to benefit from SAPARD funds;
- Establishment was based on legislation approved by Government in advance;
- Agencies usually are under the responsibility of ministries of agriculture, and under the supervision of the Ministry of Finance within the scope of managing of public funds. There are cases, as in Cyprus, where the NPA is established and operates as an autonomous public organization, which means that is an independent legal entity that does not come under the supervision of any Ministry or Department of Government;
- NPAs are accredited bodies;
- Basic tasks of NPAs were to implement agricultural structural policy and rural development policy measures;
- They established and implemented the IACS;
- NPAs implemented agricultural market price policy measures, established/implemented a market information system (MIS), collection of data for market information system in sub-sectors of milk, meat, eggs, small ruminants and vegetables;

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<sup>2</sup>[http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/negotiations\\_croatia\\_turkey/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/negotiations_croatia_turkey/index_en.htm), last visited on 29.06.2008.

<sup>3</sup> *Sine qua non* or *condicio sine qua non* (plural *sine quibus non*) was originally a Latin legal term for "(a condition) without which it could not be" or "but for..." or "without which (there is) nothing". It refers to an indispensable and essential action, condition, or ingredient.

- Carried out internal controls and internal audit.

## 5. Paying Agencies in CEE and candidate countries

It is necessary for each candidate country to establish a Paying Agency in order to obtain pre-accession assistance. Western Balkans countries will receive support under the IPARD Programme.

The following text summarises the experience of establishing Paying Agencies in two CEEs, one candidate country and one non-candidate country.

### 5.1. Slovenia

Slovenia's Agency for Agricultural Markets and Rural Development (AAMRD) is a body within the Ministry of Agriculture, Forestry and Food. It is an accredited paying agency under European and national legislation.<sup>4</sup> AAMRD was set up to implement agricultural policy reform programmes, adapt to the EU Common Agricultural Policy, and disburse SAPARD pre-accession aid. The Agency is one of the key institutions to secure European and national budget funds for preserving/developing Slovenian rural areas and strengthening agricultural markets. Since 1 May 2004, the Agency has managed/disbursed European funds from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund.

The Agency performs tasks relating to the implementation of measures in agriculture, forestry, foodstuffs and fisheries in accordance with national policy and the CAP. On 1 May 2004, the Agency completed the implementation of the SAPARD programme and began implementing new measures (of the Single Programming Document 2004-2006; of the Rural Development Programme 2004-2006; of trade measures – issuing import and export licenses, managing security deposits, paying export refunds). The Agency implements around 100 accredited measures, mainly in the area of direct payments. It makes payments per land area and number of animals, payments for less-favoured areas, and agri-environmental measures, while also cooperating to overcome the consequences of natural disasters for agriculture. The AAMRD employs more than 270 people. Approximately 80% of its employees have at least a university education, mainly in economics and agronomy.<sup>5</sup>

Tasks are carried out in the Agricultural Markets, Rural Development and Direct Payments Sections, and in the Financial, Control, General Affairs, Information Management and Technology, and Internal Audit Services. The Agency is implementing the Rural Development Programme 2007-13.<sup>6</sup>

### 5.2. Slovakia

Slovakia's Agricultural Paying Agency (APA) was created in 2003 by a special law (473/2003 Z.z.)<sup>7, 8</sup>. It is a budgetary organization which means that its budget is fully integrated into that of the Ministry of Agriculture. APA has headquarters in Bratislava and

<sup>4</sup> [http://www.arsktrp.gov.si/fileadmin/arsktrp.gov.si/pageuploads/Aktualno/Aktualno/2008/Zlozenka\\_ang\\_2008\\_Internet.pdf](http://www.arsktrp.gov.si/fileadmin/arsktrp.gov.si/pageuploads/Aktualno/Aktualno/2008/Zlozenka_ang_2008_Internet.pdf) last visited on 08.07.2008.

<sup>5</sup> *ibid*

<sup>6</sup> [http://www.mkgp.gov.si/en/bodies\\_of\\_the\\_ministry/paying\\_agency/](http://www.mkgp.gov.si/en/bodies_of_the_ministry/paying_agency/) last visited on 07.07.2008.

<sup>7</sup> in Slovakia was a successful story. APA model is based on a bureaucratic, Weberian logic, where individual civil servants are responsible for specific steps in evaluating documents and the final decisions is made based on aggregation of all evaluations in a formula based fashion

<sup>8</sup> Miroslav Bebavy "Case Study: The Agricultural Paying Agency, Slovakia" published by Instytut Spraw Publicznych, pg.2.

18 regional branches. Its task is to deliver administrative activities related to financial support from EU sources and national sources in agriculture, forestry and fishery.

The principal tasks of APA are managing applications for EU and national funding for agriculture and rural development, and financial management of approved projects/payments<sup>9</sup>.

APA has 5 major organizational sections: project-oriented support; direct support; market organization; payments; and control.

At the end of 2005, APA had 595 jobs available and 560 employees on average in 2005.<sup>10</sup>

According to Bebavy<sup>11</sup>, Slovakia's Paying Agency has been successful as measured by the key benchmarks of disbursement of payments to recipients, and legality/regularity in that the Agency follows relevant EU/national legislation and has financial control systems that comply fully with EU requirements.

### **5.3. Macedonia**

IPA funds under the Rural Development Component (#5) are denominated as IPARD (Instrument of Pre-accession supporting Agriculture and Rural Development). These will be spent under the guidance of the IPARD Programme that has been prepared by the Government of the former Yugoslav Republic of Macedonia, adopted by Commission Decision EC/2006 on the 25<sup>th</sup> of February 2008.<sup>12</sup>

In Macedonia, the Paying Agency is called the Agency for Financial Support and Rural Development. Its role is to implement the IPARD Programme. The IPARD Agency functions are subject to National Accreditation by the National Accreditation Officer (NAO) within the Ministry of Finance<sup>13</sup>

### **5.4. Albania**

In Albania, the Paying Agency was established by Law on Agriculture and Rural Development. Under Article 21, the Agency is a public body financed by the state budget. It has the status of a legal entity and depends on the Minister.<sup>14</sup> In Albania, the Agency is responsible for:

- Implementation of the measures for agriculture and rural development policy;
- Elaboration of reports and analyses related to agriculture development;
- Establishment and functioning of integrated management and control systems;
- Establishment and implementation of market information systems;
- Development and maintenance of necessary databases;
- Implementation of control measures and internal audit; and
- Inspection of farmers and other beneficiaries that have benefited programme funds for agriculture and rural development.

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<sup>9</sup> Ibid pg.3-4

<sup>10</sup> Ibid pg.4

<sup>11</sup> Ibid pg.5

<sup>12</sup> Support to the preparation of IPARD (Specific Terms of reference). An EU funded Project managed by EAR in FYROM pg. 1.

<sup>13</sup> Ibid pg. 2.

<sup>14</sup> Law on Agriculture and Rural Development of the Republic of Albania. For further information visit at <http://www.mbumk.gov.al/pdf/720.pdf> last visited on 07.07.2008.

## **6. Internal organization of National Paying Agency in some countries**

The NPA is usually organized on three levels: the headquarter in the capital city, regional offices (set up in main regional cities), and municipal offices (situated in all municipalities). The internal structure of the NPA differs from one country to another depending on the size of country and the budgetary funds to be allocated to the respective beneficiaries, as well as the scope of its work.

The NPA is usually chaired by a Director appointed by the Government upon the proposal of the Minister of Agriculture. In Cyprus, the NPA is chaired by the Commissioner of Agriculture Payments who is appointed by Council of Ministers.

The internal organization of NPAs in different countries is summarized below.

### **6.1. Slovenia**

The implementation of measures in Slovenia's NPA is organized in three internal organizational units: Direct Payment Section, Rural Development Section and Agricultural Market Section.

### **6.2. Latvia**

There are seven departments operating in the Headquarters of the Agency: Administrative Department, Audit Department, Control Department, EU Direct Payment Department, Finance Department, Information Department and Support Department.

### **6.3. Czech Republic**

The NPA is organized in units/departments responsible for providing support to IACS, Agricultural Commodities and International Trade. There is also a Legal Department and an Internal Audit Department. The Agency is supervised by a 5-person Supervisory Board, each member of which is a Member of Parliament.

### **6.4. Poland**

The organizational structure of the NPA comprises three levels: Headquarters, 16 Regional Offices in main cities, and 314 Local Offices situated in municipalities.

### **6.5. Estonia**

The NPA is organized on two levels: Headquarters and Regional Offices in all 15 counties.

### **6.6. Lithuania**

The NPA is organized in 9 departments: Finance and Accounting, Internal Audit, Risk Assessment and Management, Rural Development Programmes, Foreign Trade, Informational Technology, Control, Common Affairs and Legal. There are also the Project Management and Activity Reports' Unit and the Public Relations Unit. The Agency is led by a director and two deputy directors.

### **6.7. Cyprus**

The NPA in Cyprus is organized in 7 Divisions: Technical Services, Authorization of Payments, Execution of Payments, Accounting, IT, Administration and Human Resources, and Delegated Bodies. Within the internal structure of the NPA there is the Audit Service, the Anti-Fraud Service and the Quality Control Service, as well as a unit for Public & International Relations and Compliance & Accreditation Service. The NPA is

headed by a Commissioner and an Assistant Commissioner. The NPA has a central office and six district offices.

### **7. Management control systems**

Management control systems for the NPA are well established, and have been based on experiences and practices of the EU15 Member States. Management control systems are designed to fulfill multi-dimensional aspects of NPA activities. Proper planning and control to ensure a good performance of the NPA is accomplished through regular Internal Audit, Internal Control and External Audit, and proper use of funds dedicated for beneficiaries. Controls on risk management and other systems are linked with other government and EU institutions. The aim of management control systems is to provide managers and other staff of the NPA with an understanding of how to keep organizations under control, (which a function of operating on the basis of good ethics).

The accreditation of the NPA is carried out by the EC by adopting a Decision which confirms that the NPA can independently manage and disburse EU support funds to final beneficiaries. However, accreditation is a long process, and depends on the country's level of development.

The NPA is managed by general directors/a Chief Executive Officer usually appointed by Government upon the request of the Minister of Agriculture. Regarding management control systems, there are cases where the NPA is supervised by a Supervisory Board (e.g. Czech Republic). In other cases, agriculture policy measures are carried out by the ministry of agriculture with public funds managed by the ministry of finance.

### **8. A model of the Paying Agency for Kosovo**

Paying Agencies differ with regards to their name and structure, dependent on their legal and administrative culture. In Albania, it is called the Payment Agency; in Macedonia, it is the Paying Agency for Financial Support and Rural Development; in Slovenia, it is the Agency for Agricultural Markets and Rural Development; and in Slovakia, it is the Agricultural Paying Agency. However, the name and structure of the Agency does not matter. To be successful, a Paying Agency depends on several applicable laws e.g. Law on Auditing; Law on Public Procurement; Law on Management of Public Finances and Responsibilities; and Law on Civil Service etc.

Kosovo soon should transpose into national legislation EU Regulations regarding assistance given to candidate countries. This includes: Council Regulation No. 1164/94/EC instituting the cohesion funds; Council Regulation No. 1267/1999/EC establishing an Instrument for Structural Policies for Pre-accession; and Council Regulation No.1260/1999/EC laying down general provisions on the Structural Funds.

The establishment of the NPA in Kosovo could be developed in two phases:

1. Establish an organization/body that will use/disburse financial resources from the KCB; and
2. Transform this body into a fully operational NPA by the time Kosovo becomes a candidate country.

The Agency should have 7 Regional Offices in Prishtina, Prizren, Mitrovica, Gjilani, Peja, Gjakova and Ferizaj, in order to accelerate the allocation of funds and the execution of payments.

The establishment of the Paying Agency in Kosovo is constrained by finance in that public expenditure is limited. As such, the NPA should have a structure that would be developed step-by-step according to clear priorities and available resources. Departments of Administration and Public Procurement are necessary since the Agency will be a budgetary organization that should have its own human resources management. The essential departments should be set up based on other countries' models. The Paying Agency in Kosovo should measure its success based on two key benchmarks: disbursement and legality/regularity, (as discussed above).

## 9. Conclusion

The Paying Agency<sup>15</sup> is a necessity for Kosovo, and should be established as soon as possible, in order to get ready to benefit from the IPARD Programme. Kosovo should adopt an advanced and detailed legal framework to ensure proper use of funds and sound financial management. The NPA models of Slovenia, Cyprus and Croatia offer good examples for Kosovo to follow<sup>16</sup>.

The success of the Paying Agency is conditioned by proper implementation of the following laws: Law on Auditing; Law on Public Procurement; Law on Management of Public Finances and Responsibilities; Law on Civil Service, and the transposition of relevant *acquis communautaire* into national legislation etc.

Kosovo needs only one accredited Agency with 7 regional offices that will ease the administrative procedures for beneficiaries. However, there should be only one, centralised decision-making centre to avoid corruption and conflict of interest, as well as ensure efficiency.

## 10. Timetable

The plan to establish an NPA in Kosovo will require discussion within MAFRD, with all stakeholders and other government institutions, as well as the EC, international organizations and other donors, based on the following possible timetable:

- MAFRD internal restructuring/reorganization process finalized (September 2008);
- Law on Agriculture and Rural Development adopted and enacted by the Assembly (end of March 2009);
- Ministerial Order to establish the predecessor of NPA (April 2009);
- Government Decision to establish the predecessor of NPA (May 2009);
- Inclusion of budget request for predecessor of NPA on MAFRD budget proposal for 2010 (June 2009);
- Draft and adopt other acts and administrative instructions within MAFRD (July-September 2009);
- Government Decision to appoint director of predecessor of NPA (October 2009);
- Predecessor of NPA to become operational (1 January 2010); and
- Establishment of fully operational NPA (one month before becoming a candidate country).

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<sup>15</sup> Kosovo Agency for Rural Support and Agricultural Markets?

<sup>16</sup> Whilst the Slovenian model is very good, the model of Cyprus is more appropriate and suitable for Kosovo than the Slovak model, because of factors such as the stage of agricultural development, and the average farm size and structure: (in Slovakia, this is larger than in Kosovo). Even though it is still not fully operational, the development of the Croatian NPA is interesting for Kosovo, given that Croatia is a candidate country.