

# COMMISSION

## COMMISSION DECISION

of 15 July 2005,

**excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF)**

(notified under document number C(2005) 2685)

**(Only the Spanish, Danish, German, Greek, English, French, Italian, Dutch and Portuguese texts are authentic)**

(2005/555/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(1)</sup>, and in particular Article 5(2)(c) thereof,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy <sup>(2)</sup>, and in particular Article 7(4) thereof,

Having consulted the Fund Committee,

Whereas:

(1) Article 5 of Regulation (EEC) No 729/70, Article 7 of Regulation (EC) No 1258/1999, and Article 8(1) and (2) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section <sup>(3)</sup>, provide that the Commission is to make the necessary verifications,

inform the Member States of its findings, take account of the Member States' comments, initiate bilateral discussions and then formally communicate its conclusions to the Member States, referring to Commission Decision 94/442/EC of 1 July 1994 setting up a conciliation procedure in the context of the clearance of the accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section <sup>(4)</sup>.

(2) The Member States have had an opportunity to request that a conciliation procedure be initiated. That opportunity has been used in some cases and the report issued on the outcome has been examined by the Commission.

(3) Under Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999, only refunds on exports to third countries and intervention to stabilise agricultural markets, respectively granted and undertaken according to Community rules within the framework of the common organisation of the agricultural markets, may be financed.

(4) In the light of the checks carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil these requirements and cannot, therefore, be financed under the EAGGF Guarantee Section.

<sup>(1)</sup> OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Commission Regulation (EC) No 1287/95 (OJ L 125, 8.6.1995, p. 1).

<sup>(2)</sup> OJ L 160, 26.6.1999, p. 103.

<sup>(3)</sup> OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 465/2005 (OJ L 77, 23.3.2005, p. 6).

<sup>(4)</sup> OJ L 182, 16.7.1994, p. 45. Decision as last amended by Decision 2001/535/EC (OJ L 193, 17.7.2001, p. 25).

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section should be indicated. Those amounts do not relate to expenditure incurred more than twenty-four months before the Commission's written notification of the results of the checks to the Member States.

(6) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with Community rules was notified by the Commission to the Member States in a summary report on the subject.

(7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 15 February 2005 and relating to its content,

HAS ADOPTED THIS DECISION:

*Article 1*

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section shall be excluded from Community financing because it does not comply with Community rules.

*Article 2*

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 15 July 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

## ANNEX

Sector	Member State	Budget item	Reason	Nat. Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial-year
Animal premia	AT	21 20, 21 21, 21 25, 21 28	Flat-rate correction of 5 % — over-declaration of alpine forage areas, non-application of the area-measurement system.	EUR	- 1 580 413,53	0,00	- 1 580 413,53	2001-2002
	<b>Total AT</b>				<b>- 1 580 413,53</b>	<b>0,00</b>	<b>- 1 580 413,53</b>	
Financial audit	BE	Miscellaneous	Financial correction — certification of accounts.	EUR	- 73 583,84	0,00	- 73 583,84	2002
	<b>Total BE</b>				<b>- 73 583,84</b>	<b>0,00</b>	<b>- 73 583,84</b>	
Financial audit	DE	21 20, 21 24, 23 20	Correction — application of Council Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	- 300 160,13	- 332 346,61	32 186,48	2003
Financial audit	DE	Miscellaneous	Financial correction — certification of accounts.	EUR	- 1 179 506,70	0,00	- 1 179 506,70	2002
	<b>Total DE</b>				<b>- 1 479 666,83</b>	<b>- 332 346,61</b>	<b>- 1 147 320,22</b>	
Animal premia	DK	21 24, 21 28	Erroneous control statistics submitted for 2002, non-compliance with Commission Regulation (EEC) No 3887/92, inadequate risk analysis.	DKK	- 1 385 375,53	0,00	- 1 385 375,53	2002-2003
Financial audit	DK	21 25	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	DKK	- 208 243,99	- 208 243,99	0,00	2003
	<b>Total DK</b>				<b>- 1 593 619,52</b>	<b>- 208 243,99</b>	<b>- 1 385 375,53</b>	
Fruit and vegetables	GR	15 15	Multiannual contracts: specific financial correction — failure to achieve minimum quantities. Annual and multiannual contracts: flat-rate financial correction of 5 % — quantities delivered for processing were smaller than specified in contractual agreements.	EUR	- 330 595,00	0,00	- 330 595,00	2000-2001

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Animal premia	GR	21 25	Exclusion of total declared expenditure — no quality control to establish the stocking density, no control of extensification premium, deficient procedures to establish eligibility for extensification premium in eligible land taken into account to establish eligibility, no confirmation of penalties.	EUR	- 34 530 717,69	0,00	- 34 530 717,69	2001-2003
Arable crops	GR	10 40-10 62, 13 10, 18 58	Flat-rate correction of 5 % — no full implementation of IACS, key component controls not fully operational.	EUR	- 25 437 255,00	0,00	- 25 437 255,00	2003
	<b>Total GR</b>				<b>-60 298 567,69</b>	<b>0,00</b>	<b>- 60 298 567,69</b>	
Fruit and vegetables	ES	15 07	Flat-rate correction of 10 % — non-compliance with payment deadlines.	EUR	- 13 341 081,60	0,00	- 13 341 081,60	2000-2001
Fruit and vegetables	ES	15 01, 15 02, 15 11, 15 12, 15 15, 314	Flat-rate correction of 5 % — shortcomings in the control system of the Andalusian authorities. 2 % correction for measures within the processing sector. Flat-rate correction of 10 % — non-fixing of planned penalties.	EUR	- 1 821 776,35	0,00	- 1 821 776,35	1999-2001
Fruit and vegetables	ES	15 02	Expenses to be excluded from Community funding — unbalanced operational programmes, inadequate environmental activities.	EUR	- 2 902 219,77	0,00	- 2 902 219,77	2000-2002
Milk	ES	20 71	Annulment of Commission Decision 2001/137/EC of 5 February 2001, amount to be reimbursed to Spain.	EUR	14 582 115,50	0,00	14 582 115,50	1996
Public Storage	ES	32 20	Scale of correction: as established in Article 4 of Regulation (EC) No 296/96 — non-compliance with payment deadlines.	EUR	- 1 479 326,74	0,00	- 1 479 326,74	2000-2002
Wine and tobacco products	ES	16 50	Correction of 100 % for part of the expenditure — non-compliance with Council Regulation (EC) No 1493/1999.	EUR	- 4 790 799,61	0,00	- 4 790 799,61	2001-2003

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Animal premia	ES	21 20, 21 21, 21 22, 21 24, 21 25, 21 28	Flat-rate correction of 5 % — insufficient level of on-the-spot checks.	EUR	- 3 066 016,28	0,00	- 3 066 016,28	2002-2003
Honey	ES	23 20	Flat-rate correction of 5 % — inadequate controls, absence of an increase in the number of on-the-spot checks, VAT unduly charged.	EUR	- 71 495,57	0,00	- 71 495,57	2002-2003
	<b>Total ES</b>				<b>- 12 890 600,42</b>	<b>0,00</b>	<b>- 12 890 600,42</b>	
Fruit and vegetables	FR	15 01, 15 02, 15 09, 15 12, 314	Specific correction of 25,3 % and flat-rate correction of 10 % — acknowledgment: shortcomings in control system. flat-rate correction of 5 % — activities relating to products withdrawn from the market: shortcomings in control system. flat-rate correction of 10 % — non-fixing of penalties.	EUR	- 63 792 464,12	0,00	- 63 792 464,12	1999-2002
Fruit and vegetables	FR	15 02	Flat-rate correction of 2 % — use of flat-rate sums and erroneous method for calculating contributions to operational funds.	EUR	- 2 669 660,60	0,00	- 2 669 660,60	2000-2003
Financial audit	FR	12 10, 15 02, 16 10, 21 21, 21 24, 21 25, 21 28	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	- 5 648 423,18	- 5 648 423,18	0,00	2003
	<b>Total FR</b>				<b>- 72 110 547,90</b>	<b>- 5 648 423,18</b>	<b>- 66 462 124,72</b>	
Fishery	IE	26 10	Flat-rate correction of 2 % — lack of proper control over the withdrawal of fish. Flat-rate correction of 5 % — inadequate control over the rendering of goods unfit for human consumption. Flat-rate correction of 10 % — shortcomings in the inventories of stores. Specific correction — claims received after deadline.	EUR	- 582 331,61	0,00	- 582 331,61	2001-2003

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Financial audit	IE	21 25, 22 21	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	- 625 136,09	- 625 136,09	0,00	2003
	<b>Total IE</b>				<b>- 1 207 467,70</b>	<b>- 625 136,09</b>	<b>- 582 331,61</b>	
Fruit and vegetables	IT	15 02	Scale of correction: as established in Article 4 of Regulation (EC) No 296/96 — non-compliance with payment deadlines.	EUR	- 1 223 457,00	0,00	- 1 223 457,00	2002
Honey	IT	23 20	Flat-rate correction of 5 % for 2001 and 2002, 2 % for 2003 — inadequate controls, insufficient evidence of supervision by the paying agency, ineligible expenditure charged to the Fund.	EUR	- 582 226,79	0,00	- 582 226,79	2001-2003
Financial audit	IT	Miscellaneous	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	- 28 852 472,77	- 29 264 364,26	411 891,49	2002
	<b>Total IT</b>				<b>- 30 658 156,56</b>	<b>- 29 264 364,26</b>	<b>- 1 393 792,30</b>	
Animal premia	LU	22 20, 22 21, 22 22	Flat-rate correction of 5 % — insufficient attention to compliance with conditions of eligibility, absence of checks on supporting documents, inspections announced too early, absence of checks on premises where animals kept.	EUR	- 13 978,14	0,00	- 13 978,14	2002-2004
Arable crops	LU	10 40-10 60, 10 62, 1310	Flat-rate correction of 2 % — recurrent deficiencies in the administration of on-site audits, late on-site audits, shortcomings in the calculation of aid amounts, application of incorrect reduction rate.	EUR	- 621 471,00	0,00	- 621 471,00	2000-2002
Rural development	LU	40 40	Correction — non-observation of eligibility requirement.	EUR	- 122 153,00	0,00	- 122 153,00	2002
Financial audit	LU	21 28	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	0,00	- 1 523 705,30	1 523 705,30	2003
	<b>Total LU</b>				<b>- 757 602,14</b>	<b>- 1 523 705,30</b>	<b>766 103,16</b>	
Animal premia	NL	22 20, 22 21, 22 22	Flat-rate correction of 2 % — inadequate implementation of flock registers.	EUR	- 676 571,03	0,00	- 676 571,03	2002-2004

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Financial audit	NL	10 49, 18 00, 21 20, 21 24, 21 25, 21 28	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	- 763 843,83	- 1 317 551,36	553 707,53	2003
	<b>Total NL</b>				<b>- 1 440 414,86</b>	<b>- 1 317 551,36</b>	<b>- 122 863,50</b>	
Animal premia	PT	21 20, 21 21, 21 22, 21 24, 21 25, 21 28	Flat-rate correction of 5 % for claim year 2000, 2 % for claim year 2001, 5 % for claim years 2002 and 2003 — shortcomings with regard to the I & R system, insufficient control of claims, inadequate administrative cross-checks.	EUR	- 6 805 576,11	0,00	- 6 805 576,11	2001-2004
Animal premia	PT	22 20, 22 21, 22 22	Flat-rate correction of 5 % (2 % for some regions for 2001) — inadequate implementation of flock registers, insufficient number of on-the-spot-checks.	EUR	- 5 103 616,08	0,00	- 5 103 616,08	2001-2003
Financial audit	PT	16 30	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	- 24 809,86	- 24 809,86	0,00	2003
	<b>Total PT</b>				<b>- 11 934 002,05</b>	<b>- 24 809,86</b>	<b>- 11 909 192,19</b>	
Intervention storage	UK	38 00	Scale of correction: as established in Article 4 of Regulation (EC) No 296/96 — non-compliance with payment deadlines.	GBP	- 523 063,45	0,00	- 523 063,45	2002
Financial audit	UK	Miscellaneous	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	GBP	- 34 151 974,35	- 34 151 974,35	0,00	2003
	<b>Total UK</b>				<b>- 34 675 037,80</b>	<b>- 34 151 974,35</b>	<b>- 523 063,45</b>	