

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 30 April 2008

on the clearance of the accounts of certain paying agencies in Germany, Italy and Slovakia concerning expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2006 financial year

(notified under document number C(2008) 1709)

(Only the German, Italian and Slovak texts are authentic)

(2008/394/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

agencies except for the German paying agencies 'Baden-Württemberg' and 'Bayern-Umwelt', the Italian paying agencies 'AGEA' and 'ARBEA', the Portuguese paying agency 'IFADAP' and the Slovak paying agency 'APA'.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 7(3) thereof,

- (2) Following the transmission of new information and after additional checks, the Commission can now take a decision on the integrality, accuracy and veracity of the accounts submitted by the German paying agency 'Baden-Württemberg', the Italian paying agency 'AGEA' and the Slovak paying agency 'APA'.

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽²⁾, and in particular Article 32 thereof,

After consulting the Fund Committee,

- (3) The second subparagraph of Article 7(1) of Commission Regulation (EC) No 1663/95 ⁽⁴⁾ lays down that the amounts that are recoverable from, or payable to, each Member State, in accordance with the accounts clearance decision referred to in the first subparagraph, shall be determined by deducting advances paid during the financial year in question, i.e. 2006, from expenditure recognised for that year in accordance with the first subparagraph. Such amounts are to be deducted from, or added to, advances against expenditure from the second month following that in which the accounts clearance decision is taken.

Whereas:

- (1) Commission Decision 2007/327/EC ⁽³⁾ cleared, for the 2006 financial year, the accounts of all the paying

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

⁽²⁾ OJ L 209, 11.8.2005, p. 1. Regulation as amended by Regulation (EC) No 1437/2007 (OJ L 322, 7.12.2007, p. 1).

⁽³⁾ OJ L 122, 11.5.2007, p. 51.

⁽⁴⁾ 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).

- (4) Pursuant to Article 32(5) of Regulation (EC) No 1290/2005, 50 % of the financial consequences of non-recovery of irregularities shall be borne by the Member State concerned and 50 % by the Community budget if the recovery of those irregularities has not taken place within four years of the primary administrative or judicial finding, or within eight years if the recovery is taken to the national courts. Article 32(3) of the said Regulation obliges Member States to submit to the Commission, together with the annual accounts, a summary report on the recovery procedures undertaken in response to irregularities. Detailed rules on the application of the Member States' reporting obligation of the amounts to be recovered are laid down in Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD⁽¹⁾. Annex III to the said Regulation provides the model tables 1 and 2 that have to be provided in 2007 by the Member States. On the basis of the tables completed by the Member States, the Commission should decide on the financial consequences of non-recovery of irregularities older than four or eight years respectively. This decision is without prejudice to future conformity decisions pursuant to Article 32(8) of Regulation (EC) No 1290/2005.
- (5) Pursuant to Article 32(6) of Regulation (EC) No 1290/2005, Member States may decide not to pursue recovery. Such a decision may only be taken if the costs already and likely to be incurred total more than the amount to be recovered or if the recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity. If that decision has been taken within four years of the primary administrative or judicial finding, or within eight years if the recovery is taken to the national courts, 100 % of the financial consequences of the non-recovery should be borne by the Community budget. In the summary report referred to in Article 32(3) of Regulation (EC) No 1290/2005 the amounts for which the Member State decided not to pursue recovery and the grounds for the decision are shown. These amounts are not charged to the Member States concerned and are consequently to be borne by the Community budget. This decision is without

prejudice to future conformity decisions pursuant to Article 32(8) of the said Regulation.

- (6) In clearing the accounts of the paying agencies concerned, the Commission must take account of the amounts already withheld from the Member States concerned on the basis of Decision 2007/327/EC.
- (7) In accordance with the second subparagraph of Article 7(3) of Regulation (EC) No 1258/1999 and Article 7(1) of Regulation (EC) No 1663/95, this Decision does not prejudice decisions taken subsequently by the Commission excluding from Community financing expenditure not effected in accordance with Community rules,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the German paying agency 'Baden-Württemberg', the Italian paying agency 'AGEA' and the Slovak paying agency 'APA' concerning expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, in respect of the 2006 financial year, are hereby cleared.

The amounts which are recoverable from, or payable to, each Member State concerned pursuant to this Decision, including those resulting from the application of Article 32(5) of Regulation (EC) No 1290/2005, are set out in the Annex.

Article 2

This Decision is addressed to the Federal Republic of Germany, the Italian Republic and the Slovak Republic.

Done at Brussels, 30 April 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 171, 23.6.2006, p. 90. Regulation as amended by Regulation (EC) No 1233/2007 (OJ L 279, 23.10.2007, p. 10).

ANNEX

CLEARANCE OF THE PAYING AGENCIES' ACCOUNTS

Financial year 2006

Amount to be recovered from or paid to the Member State

MS	2006 — Expenditure/assigned revenue for the paying agencies for which the accounts are		Total a + b	Reductions and suspensions for the whole financial year	Reductions according to Article 32 of Regulation (EC) No 1290/2005	Total including reductions and suspensions	Advances paid to the Member State for the financial year	Amount to be recovered from (-) or paid to (+) the Member State	Amount recovered from (-) or paid to (+) the Member State under Decision 2007/327/EC	Amount to be recovered from (-) or paid to (+) the Member State under this decision (*)
	cleared	disjoined								
	= expenditure/assigned revenue declared in the annual declaration	= total of the expenditure/assigned revenue in the monthly declarations								
DE	EUR 6 526 706 239,34	16 647 818,33	6 543 354 057,67	- 15 751,26	- 22 076 833,17	6 521 261 473,24	6 543 392 477,21	- 22 131 003,97	- 22 062 685,96	- 68 318,01
IT	EUR 5 346 806 962,99	124 289 380,08	5 471 096 343,07	- 50 445 262,13	- 124 588 830,86	5 296 062 250,08	5 460 957 034,26	- 164 894 784,18	- 24 758 663,41	- 140 136 120,77
SK	SKK 5 603 584 048,11	0,00	5 603 584 048,11	0,00	0,00	5 603 584 048,11	5 605 953 347,87	- 2 369 299,76	0,00	- 2 369 299,76

MS	Expenditure (1)	Assigned revenue (1)	Sugar Fund		Article 32 (= e)	Total (= j)
			Expenditure (2)	Assigned revenue (2)		
			05021602	6803	6702	
DE	EUR 0,00	0,00	0,00	n	- 68 318,01	- 68 318,01
IT	EUR - 40 296 552,55	0,00	0,00	0,00	- 99 839 568,22	- 140 136 120,77
SK	SKK - 2 369 299,76	0,00	0,00	0,00	0,00	- 2 369 299,76

(*) Applicable exchange rate: Article 7(2) of Regulation (EC) No 883/2006.

(1) If the assigned revenue part would be to the advantage of the Member State, it has to be declared under 05070106.

(2) If the assigned revenue part of the Sugar Fund would be to the advantage of the Member State, it has to be declared under 05021602.

NB:

- 1) For the calculation of the amount to be recovered from or paid to the Member State the amount taken into account is the total of the annual declaration for the expenditure cleared (column a), or the total of the monthly declarations for the expenditure disjoined (column b).
- 2) The reductions and suspensions are those taken into account in the advance system, to which are added in particular the corrections for the non-respect of payment deadlines established in August, September and October 2006.

3) Nomenclature 2008: 05070106, 05021602, 6701, 6702, 6803.