COMMISSION IMPLEMENTING DECISION (EU) 2023/1039

of 24 May 2023

on the clearance of the accounts of the paying agencies of the United Kingdom concerning debts arising from expenditure financed by the European Agricultural Guarantee Fund (EAGF) under the 2014-2020 programming period and the 2007-2013 programming period for financial year 2022

(notified under document C(2023) 3272)

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 ([1]), and in particular Article 104 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ([2]), and in particular Article 51 thereof, in conjunction with Articles 131 and 138 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('Withdrawal Agreement'),

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) Article 104(1), second subparagraph, point (a), of Regulation (EU) 2021/2116 provides that Article 4(1), point (b), Article 5, Article 7(3), Articles 9, 17, 21 and 34, Article 35(4), Articles 36, 37, 38, 40 to 43, 51, 52, 54, 56, 59, 63, 64, 67, 68, 70 to 75, 77, 91 to 97, 99 and 100, Article 102(2) and Articles 110 and 111 of Regulation (EU) No 1306/2013 continue to apply, as regards debts arising from expenditure financed by the European Agricultural Guarantee Fund (EAGF) under the 2014-2020 programming period and the 2007-2013 programming period for financial year 2022.

(2) Article 64, second paragraph, point (a), of Commission Implementing Regulation (EU) 2022/128 ([3]) provides that Article 2, Article 3(1), first subparagraph, Article 3(2), Article 4(1), point (b), Article 5, Article 6, Article 7, Articles 21 to 25, Article 27, Article 28, Article 29, Article 30(1), points (a), (b) and (c), Article 30(2), (3) and (4), Articles 31 to 40 and Articles 42 to 47 of Commission Implementing Regulation (EU) No 908/2014 ([4]) continue to apply, as regards debts arising from expenditure financed by the EAGF under the 2014-2020 programming period and the 2007-2013 programming period for financial year 2022.

([1]) OJ L 435, 6.12.2021, p. 187.

([2]) OJ L 347, 20.12.2013, p. 549.

([3]) Commission Implementing Regulation (EU) 2022/128 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2116 of the European Parliament and of the Council on paying agencies and other bodies, financial management, clearance of accounts, checks, securities and transparency (OJ L 20, 31.1.2022, p. 131).

([4]) Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ L 255, 28.8.2014, p. 59).

(3) Article 64, second paragraph, point (c), of Implementing Regulation (EU) 2022/128 provides that Annexes II and III to Implementing Regulation (EU) No 908/2014 continue to apply for the purposes of Article 32, points (f) and (g), of Implementing Regulation (EU) 2022/128 for financial year 2022.

(4) Pursuant to Article 51 of Regulation (EU) No 1306/2013, the Commission, on the basis of the annual accounts submitted by the United Kingdom, accompanied by the information required for the clearance of accounts and an audit opinion regarding the completeness, accuracy and veracity of the accounts and the reports established by the certification bodies, has to clear the accounts of the paying agencies referred to in Article 7 of that Regulation prior to 31 May of the year following the budget year in question.

(5) Pursuant to Article 138(1) of the Withdrawal Agreement, the United Kingdom has an obligation to continue to ensure the functioning of the management and control system for recognition, registration and recovery of debts arising from expenditure financed by EAGF under 2014-2020 programming period and the 2007-2013 programming period, in accordance with Article 54 of Regulation (EU) No 1306/2013.

(6) In accordance with Article 35 of Regulation (EU) 2021/2116, the agricultural financial year begins on 16 October of year N-1 and ends on 15 October of year N. When clearing the accounts for financial year 2022, account should be taken of recognition, registration and recovery of debts by the United Kingdom between 16 October 2021 and 15 October 2022, as provided for in Article 11(1) of Implementing Regulation (EU) 2022/128.

(7) The Commission has checked the information submitted by the United Kingdom and has communicated the results of its checks to the United Kingdom, together with the amendments it proposes.

(8) For the paying agencies of the United Kingdom, 'Department of Agriculture, Environment and Rural Affairs', 'The Scottish Government Rural Payments and Inspections Directorate', 'Welsh Government' and 'Rural Payments Agency', the annual accounts and the accompanying documents permit the Commission to take a decision on the completeness, accuracy and veracity of the annual accounts submitted.

(9) Pursuant to Article 54(2) of Regulation (EU) No 1306/2013, 50 % of the financial consequences of non-recovery of irregularities should be borne by the United Kingdom, if recovery has not taken place within 4 years from the date of the recovery request, or within 8 years where the recovery is taken before the national courts. Article 54(4) of Regulation (EU) No 1306/2013 requires the United Kingdom to attach to the annual accounts that it has to submit to the Commission pursuant to Article 29 of Implementing Regulation (EU) No 908/2014 a certified table reflecting the amounts to be borne by the United Kingdom under Article 54(2) of Regulation (EU) No 1306/2013. Rules on the application of the obligation of the United Kingdom to report the amounts to be recovered are laid down in Implementing Regulation (EU) No 908/2014. Annex II to Implementing Regulation (EU) No 908/2014 sets out the model of the table that the United Kingdom has to use to provide information about amounts to be recovered. On the basis of the tables completed by the United Kingdom, the Commission should decide on the financial consequences of non-recovery of irregularities older than 4 or 8 years respectively.

(10) Pursuant to Article 54(3) of Regulation (EU) No 1306/2013, on duly justified grounds, the United Kingdom may decide not to pursue recovery. Such a decision may be taken only 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 the decision has been taken within 4 years from the date of the recovery request or within 8 years where the recovery is taken to the national courts, 100 % of the financial consequences of the non-recovery should be borne by the Union budget. The amounts for which the United Kingdom decided not to pursue recovery and the grounds for the decision are shown in the summary report referred to in Article 54(4) of that Regulation. Therefore, such amounts should not be charged to the United Kingdom and are consequently borne by the Union budget.

(11) In accordance with Article 51 of Regulation (EU) No 1306/2013, this Decision should be without prejudice to the decisions the Commission may take subsequently to exclude from Union financing expenditure not effected in accordance with Union rules,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the paying agencies of the United Kingdom, 'Department of Agriculture, Environment and Rural Affairs', 'The Scottish Government Rural Payments and Inspections Directorate', 'Welsh Government' and 'Rural Payments Agency' are hereby cleared as regards debts arising from expenditure financed by the European Agricultural Guarantee Fund (EAGF) under the multiannual financial framework for the years 2014-2020 and previous financial perspectives, in accordance with Article 54 of Regulation (EU) No 1306/2013 for financial year 2022.

The amounts recoverable from, or payable to, the United Kingdom pursuant to this Decision, including those resulting from the application of Article 54(2) of Regulation (EU) No 1306/2013, are set out in the Annex to this Decision.

Article 2

This Decision is without prejudice to future conformity clearance decisions that the Commission may take pursuant to Article 52 of Regulation (EU) No 1306/2013 to exclude from Union financing expenditure not effected in accordance with Union rules.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 24 May 2023.

For the Commission
Janusz WOJCIECHOWSKI
Member of the Commission

ANNEX

Clearance of the Paying Agencies' accounts

Financial year 2022 - EAGF

Amount to be recovered from or paid to the United Kingdom

		2022 - Expenditure / Assigned Revenue for the paying agencies for which the accounts are		Total a + b	Amount to be charged according to Article 54(2) of Regulation (EU) No 1306/2013 in relation to the EAGF	Total	Amount to be recovered from (-) or paid to (+) the United Kingdom (1)
		cleared	disjoined				
		= expenditure / assigned revenue declared in the annual declaration	= total of the expenditure / assigned revenue in the monthly declarations				
		a	b	c=a+b	d	e=c+d	f=e
UK	GBP	0,00	0,00	0,00	- 19 336,80	- 19 336,80	- 19 336,80
UK	EUR	- 1 474 812,20	0,00	- 1 474 812,20	0,00	- 1 474 812,20	- 1 474 812,20

(1) For the calculation of the amount to be recovered from or paid to the United Kingdom the amount taken into account is, the total of the annual declaration for the expenditure cleared (col.a) or, the total of the monthly declarations for the expenditure disjoined (col.b). Applicable exchange rate: Article 11(1), first subparagraph, second sentence of the Commission Delegated Regulation (EU) No 907/2014.

		Expenditure (1)	Assigned revenue (1)	Article 54(2) (=d)	Total (=f)
		0802 06 01	6200	6200	
		g	h	i	j=g+h+i
UK	GBP	0,00	0,00	- 19 336,80	- 19 336,80
UK	EUR	0,00	- 1 474 812,20	0,00	- 1 474 812,20

(1) BL 08 02 06 01 shall be split between the negative corrections which become assigned revenue in BL 62 00 and the positive ones in favour of the United Kingdom which shall now be included on the expenditure side 08 02 06 01 as per article 43 of Regulation (EU) No 1306/2013.
NB: Nomenclature 2023 : 0802 06 01 , 6200