

COMMISSION

COMMISSION DECISION of 5 November 2002

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(2002) 4127)

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

(2002/881/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 ⁽¹⁾, as last amended by Regulation (EC) No 1287/95 ⁽²⁾, 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 ⁽³⁾, and in particular Article 7(4) thereof,

After consulting the Committee for the European Agricultural Guidance and Guarantee Fund,

Whereas:

- (1) Article 5(2)(c) of Regulation (EEC) No 729/70 and Article 7(4) of Regulation (EC) No 1258/1999 stipulate that the Commission is to exclude expenditure from Community financing where it finds that it has not been incurred in accordance with Community rules.
- (2) The above Articles of Regulation (EEC) No 729/70 and Regulation (EC) No 1258/1999 as well as 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 ⁽⁴⁾, as last amended by Regulation (EC) No 2025/2001 ⁽⁵⁾, provide that the Commission is to carry out the necessary checks, forward its findings to the Member States, consider any comments from the latter, enter into bilateral discussions to reach an agreement with the Member States concerned and formally communicate its conclusions to them, 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 ⁽⁶⁾, as last amended by Decision 2001/535/EC ⁽⁷⁾.

- (3) The Member States have had the opportunity to request that a conciliation procedure be initiated. That procedure has been applied in some cases and the reports issued on the outcome have been considered by the Commission.
- (4) Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999 provide that refunds on exports to third countries and intervention intended to stabilise agricultural markets may be financed only where they are either granted or undertaken in accordance with the Community rules governing the common organisations of agricultural markets.
- (5) The findings of checks performed, the results of bilateral discussions and the outcome of the conciliation procedures have shown that some expenditure declared by the Member States does not meet those conditions and cannot therefore be financed under the EAGGF Guarantee Section.
- (6) The Annex to this Decision sets out the amounts that are not recognised as being chargeable to the EAGGF Guarantee Section. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the checks to the Member States.
- (7) 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 and is set out in a summary report on the subject.

⁽¹⁾ OJ L 94, 28.4.1970, p. 13.

⁽²⁾ OJ L 125, 8.6.1995, p. 1.

⁽³⁾ OJ L 160, 26.6.1999, p. 103.

⁽⁴⁾ OJ L 158, 8.7.1995, p. 6.

⁽⁵⁾ OJ L 274, 17.10.2001, p. 3.

⁽⁶⁾ OJ L 182, 16.7.1994, p. 45.

⁽⁷⁾ OJ L 193, 17.7.2001, p. 25.

- (8) 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 31 May 2002 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 is hereby 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 Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, 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, 5 November 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

CORRECTION TOTALS

Sector	Member State	Budget item	Reason	Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Public storage	Austria	1013	Non-compliance with Commission Regulation (EEC) No 689/92, Article 4a (1)	EUR	- 71 861,57	0,00	- 71 861,57	1998-1999
	Total Austria				- 71 861,57	0,00	- 71 861,57	
Public storage	Spain	1232	Non-compliance with Commission Regulation (EC) No 561/1999 (2)	EUR	- 37 621,55	0,00	- 37 621,55	1999
Olive oil	Spain	1210	Annulment of Commission Decision 1999/186/EC (3)	EUR	29 795 787,00	0,00	29 795 787,00	1996
Olive oil	Spain	1210	Flat-rate correction of 5 % for 1999	EUR	- 45 524 432,65	0,00	- 45 524 432,65	1999
Arable crops	Spain	1041-1858	Flat-rate corrections of 2 % and 5 % — inadequate checks	EUR	- 9 535 463,00	0,00	- 9 535 463,00	1999-2000
Livestock premiums	Spain	2220-2512	Incorrect livestock balance 1996-98	EUR	- 4 154 200,63	0,00	- 4 154 200,63	1997-2000
Livestock premiums	Spain	2120-2122	Flat-rate correction of 2 % — penalties not applied	EUR	- 2 671 717,14	0,00	- 2 671 717,14	1999-2000
Livestock premiums	Spain	2120-2128	Flat-rate corrections of 2 % and 5 % — major shortcomings	EUR	- 1 928 233,71	0,00	- 1 928 233,71	1998-2000
Livestock premiums	Spain	2120-2125	Flat-rate corrections of 2 %, 5 % and 10 % — major shortcomings	EUR	- 1 463 027,00	0,00	- 1 463 027,00	1999
Milk and milk products	Spain	2071	Annulment of Commission Decision 1999/187/EC (4) by Court of Justice	EUR	8 146 987,47	0,00	8 146 987,47	1995
	Total Spain				- 27 371 921,21	0,00	- 27 371 921,21	
Public storage	Denmark	1011-1014	Correction to annual declaration + non-compliance Regulation (EC) No 689/92 — takeover date	DKK	- 642 063,05	0,00	- 642 063,05	1997-1998
	Total Denmark				- 642 063,05	0,00	- 642 063,05	
Public storage	France	3190	Non-compliance with Commission Regulation (EC) No 1799/1999 (5)	EUR	- 13 547,69	0,00	- 13 547,69	2000
Public storage	France	2111-2113	Non-compliance with Commission Regulation (EC) No 1799/1999	EUR	- 106 833,39	0,00	- 106 833,39	2000
Financial audit	France	320	Flat-rate correction of 10 % for inadequate checks	EUR	- 251 329,28	0,00	- 251 329,28	2000
Financial audit	France	B1-4	Financial errors detected	EUR	- 7 641 715,23	0,00	- 7 641 715,23	2000
Financial audit	France	Various	Flat-rate correction	EUR	- 35 612,70	0,00	- 35 612,70	2000
Financial audit	France	Various	Incomplete administrative checks	EUR	- 2 988 000,00	0,00	- 2 988 000,00	2000
Public storage	France	1011-1014	Storage conditions not acceptable	EUR	- 3 070 983,88	0,00	- 3 070 983,88	1998-1999
	Total France				- 14 108 022,17	0,00	- 14 108 022,17	

Sector	Member State	Budget item	Reason	Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Fruits and vegetables	Greece	1515	Corrections of 3 % (insurance premiums) and 2 % (inadequate checks)	EUR	- 2 438 896,91	0,00	- 2 438 896,91	1997-2001
Livestock premiums	Greece	2120-2125	Flat-rate correction of 10 % — major shortcomings	EUR	- 11 352 868,00	- 11 352 868,00	0,00	1999-2001
Livestock premiums	Greece	2220-2221	Flat-rate correction of 5 % — major shortcomings	EUR	- 22 969 271,00	- 22 969 271,00	0,00	1998-1999
	Total Greece				- 36 761 035,91	- 34 322 139,00	- 2 438 896,91	
Wine and tobacco	Italy	1710	Guarantee threshold exceeded	EUR	- 10 325,00	0,00	- 10 325,00	2000
Fruit and vegetables	Italy	1501	Non-compliance with Commission Regulation (EC) No 659/97 ⁽⁶⁾ and Regulation (EC) No 2200/96 ⁽⁷⁾ — ICR too high	EUR	- 75 903,00	0,00	- 75 903,00	2000-2001
Public storage	Italy	1011-1014	Non-compliance with Regulation (EEC) No 689/92 Article 4(1)	EUR	- 1 272 615,34	0,00	- 1 272 615,34	1998-1999
	Total Italy				- 1 358 843,34	0,00	- 1 358 843,34	
Livestock premiums	Netherlands	2120-2128	Flat-rate corrections of 5 % and 25 % — major shortcomings	EUR	- 3 841 421,24	0,00	- 3 841 421,24	1998-2000
	Total Netherlands				- 3 841 421,24	0,00	- 3 841 421,24	
Rural development	Portugal	5012-405	Flat-rate correction of 2 % — non-compliance with Commission Regulation (EC) No 749/96 ⁽⁸⁾ — cross-checks	EUR	- 859 727,00	0,00	- 859 727,00	1999-2000
	Total Portugal				- 859 727,00	0,00	- 859 727,00	
Rural development	United Kingdom	5011	Flat-rate correction of 2 % — supplementary checks not done — CCW	GBP	- 31 244,89	0,00	- 31 244,89	1999
Rural development	United Kingdom	5011	Flat-rate correction of 2 % — supplementary checks not done — SERAD	GBP	- 86 158,44	0,00	- 86 158,44	1999
Rural development	United Kingdom	5011-405	Flat-rate correction of 2 % — supplementary checks not done — MAFF	GBP	- 1 054 141,52	0,00	- 1 054 141,52	1999-2000
	Total United Kingdom			GBP	- 1 171 544,85	0,00	- 1 171 544,85	

⁽¹⁾ OJ L 74, 20.3.1992, p. 18⁽²⁾ OJ L 69, 16.3.1999, p. 13.⁽³⁾ OJ L 61, 10.3.1999, p. 34.⁽⁴⁾ OJ L 61, 10.3.1999, p. 37.⁽⁵⁾ OJ L 217, 17.8.1999, p. 20.⁽⁶⁾ OJ L 100, 17.4.1997, p. 22.⁽⁷⁾ OJ L 297, 21.11.1996, p. 1.⁽⁸⁾ OJ L 102, 25.4.1996, p. 33.