

COMMISSION DECISION

of 16 July 2004

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(2004) 2762)

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

(2004/561/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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⁽⁴⁾.

Having regard to the Treaty establishing the European Community,

- (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.

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

- (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.

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

- (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.

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⁽³⁾, 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

- (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 24 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.

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

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 2025/2001 (OJ L 274, 17.10.2001, p. 3).

⁽⁴⁾ 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).

- (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 2 April 2004 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 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 Portuguese Republic, the Republic of Finland and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 16 July 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX
TOTAL CORRECTIONS

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of the decision	Financial year
Financial audit	BE	1800	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	-12 546,82	-12 546,82	0,00	2002
	Total BE				-12 546,82	-12 546,82	0,00	
Financial audit	DE	2124, 2125, 2128	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	-2 201 556,70	-2 201 556,70	0,00	2002
	Total DE				-2 201 556,70	-2 201 556,70	0,00	
Fruit and vegetable	GR	1512	Correction — refusal of the expenditure — non-compliance with Regulation (EC) No 2201/96 and (EC) No 504/97 — non-respect of the minimum price and flat-rate correction of 2% — insufficient reimbursement of transport costs: processing of the peaches	EUR	-13 666 570,48	0,00	-13 666 570,48	2000-2001
Fruit and vegetable	GR	1511	Ad hoc correction — direct payments for producers and flat-rate correction of 10% shortcomings in key controls: processing of tomatoes	EUR	-11 327 825,25	0,00	-11 327 825,25	1999-2002
Fruit and vegetable	GR	1511	Flat-rate correction of 5% — shortcomings in key controls: processing tomatoes delivered by PO G	EUR	-366 752,30	0,00	-366 752,30	2002-2003
Animal Premiums	GR	2120, 2122, 2125, 2124, 2128	Flat-rate correction of 25% on the amounts net of the 2,2% — absence of a key control: non-operational status of the I&R database and deficiency in on-the-spot checks	EUR	-15 616 929,93	0,00	-15 616 929,93	2000-2001
Animal Premiums	GR	2220, 2222	Financial impact of the correction imposed for the financial years 1999-2000 (Commission Decision No 2003/536/EC) on the expenditure declared in financial year 2002	EUR	-43 594,40	0,00	-43 594,40	2002
Animal Premiums	GR	2540, 2320	Correction: over-declaration of expenditure to the EAGGF, ineligible inclusion of VAT — production and marketing of honey	EUR	-83 730,89	0,00	-83 730,89	1999-2002
Animal Premiums	Total GR				-41 105 403,25	0,00	-41 105 403,25	
Animal Premiums	ES	2220, 2221	Flat-rate correction of 5% — shortcomings in key and ancillary controls — ovine premium	EUR	-893 597,52	0,00	-893 597,52	2000-2002
Financial audit	ES	1049, 1055, 1210, 1400, 1402, 1515, 1610, 1800, 2124, 2125, 2320	Correction — application of Regulation (EC) No 1258/99 — non-respect of payment deadlines	EUR	-11 491 292,34	-11 835 994,73	344 702,39	2002
Animal Premiums	Total ES				-12 384 889,86	-11 835 994,73	-548 895,13	

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of the decision	Financial year
Financial audit	FI	2124, 2125	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	- 58 459,31	- 58 459,31	0,00	2002
	Total FI				- 58 459,31	- 58 459,31	0,00	
Animal Premiums	FR	2120, 2122, 2125, 2124, 2128	Correction of total expenditure — Haute-Corse — bovine premium	EUR	- 22 639 501,84	0,00	- 22 639 501,84	2001-2003
	FR	2120, 2122, 2125, 2124, 2128	Flat-rate correction of 2 % — shortcomings in on-the-spot checks in the view of not fully operational database: bovine premium	EUR	- 28 134 491,21	0,00	- 28 134 491,21	2003
Animal Premiums	FR	2220, 2222	Flat-rate correction of 2 % — shortcomings in on-the-spot checks	EUR	- 1 934 036,76	0,00	- 1 934 036,76	2001-2003
Animal Premiums	FR	2220, 2222	Flat-rate correction of 10 % — shortcomings in key controls — Haute-Corse — ovine premium	EUR	- 386 031,63	0,00	- 386 031,63	2000-2002
Financial audit	FR	1210, 1611, 1612, 2124, 2125, 2128	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	- 10 297 687,75	- 10 297 687,75	0,00	2002
	Total FR				- 63 391 749,19	- 10 297 687,75	- 53 094 061,44	
Financial audit	IE	1049, 2125	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	- 53 301,01	- 75 116,75	21 815,74	2002
	Total IE				- 53 301,01	- 75 116,75	21 815,74	
Animal Premium	IT	2120, 2122, 2125, 2124, 2128	Flat-rate correction of 10 % — ineffective key controls, not fully operational I&R database, flat-rate correction of 5 % and 2 % lack or deficiency in control and administration of the scheme and on-the-spot checks	EUR	- 21 098 010,70	0,00	- 21 098 010,70	1999-2001
	IT	4051, 4072	Correction — corrigendum ad hoc Decision No 15 — flat-rate correction of 2 % and 5 % for failings in the management and control system	EUR	- 40 000,00	0,00	- 40 000,00	2001-2002
Financial audit	LU	1051, 2124	Correction — application of Regulation (EC) No 258/1999 — non-respect of payment deadlines	EUR	- 132 220,46	- 132 220,46	0,00	2002
	Total LU				- 132 220,46	- 132 220,46	0,00	

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of the decision	Financial year
Export refunds	NL	2100-013 to 016	Flat-rate correction of 10 % and 5 % — Failure to implement and shortcomings in key controls — non-respect of Directive 91/628/EEC and Regulation (EC) No 615/98 provisions — export refunds for live cattle	EUR	-1 064 627,33	0,00	-1 064 627,33	1999-2001
Financial audit	NL	2120, 2124, 2125	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	-470 165,16	-470 165,16	0,00	2002
	Total NL				-1 534 792,49	-470 165,16	-1 064 627,33	
Financial audit	PT	1050, 1610, 1800	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	EUR	-44 704,67	-44 704,67	0,00	2002
	Total PT				-44 704,67	-44 704,67	0,00	
Financial audit	UK	1054, 1060, 2125	Correction — application of Regulation (EC) No 1258/1999 — non-respect of payment deadlines	GBP	-1 118 369,01	-1 118 369,01	0,00	2002
	Total UK				-1 118 369,01	-1 118 369,01	0,00	