

# COMMISSION

## COMMISSION DECISION

of 28 April 2006

**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(2006) 1702)*

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

(2006/334/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section <sup>(4)</sup>.

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 21 April 1970 on the financing of the common agricultural policy <sup>(1)</sup>, and in particular Article 5(2)(c) thereof,

- (3) Pursuant to 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, granted and undertaken respectively 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 <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 with a view to reaching agreement with the Member States concerned and then 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

- (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.
- (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.

<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).

- (7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgements of the Court of Justice in cases pending on 25 November 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 Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Hellenic Republic, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 28 April 2006.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

## ANNEX

## Total corrections

Sector	Member State	Budget item	Reason	Nat. Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Milk and milk products	BE	2040	Control deficiencies: 5 % flat-rate correction. Incorrect treatment of result of physical checks: one-off correction	EUR	- 5 851 253,86	0,00	- 5 851 253,86	2001-2003
	<b>Total BE</b>				<b>- 5 851 253,86</b>	0,00	<b>- 5 851 253,86</b>	
Milk and milk products	DE	2040	Non-compliance with the requirement to perform unannounced checks. 10 % flat-rate correction (1 operator)	EUR	- 396 063,56	0,00	- 396 063,56	2002-2004
	<b>Total DE</b>				<b>- 396 063,56</b>	<b>0,00</b>	<b>- 396 063,56</b>	
Fruit and vegetables	GR	1515	Partial annulment of Commission Decision 2002/881/EC, amount to be reimbursed to Greece.	EUR	623 385,74	0,00	623 385,74	1998-2000
Public storage	GR	3231	Partial annulment of Commission Decision 2003/102/EC, amount to be reimbursed to Greece.	EUR	9 926 005,21	0,00	9 926 005,21	1999-2001
Irregularities	GR	Miscellaneous	Partial annulment of Commission Decision 2003/481/EC, amount to be reimbursed to Greece.	EUR	41 884,90	0,00	41 884,90	
	<b>Total GR</b>				<b>10 591 275,85</b>	<b>0,00</b>	<b>10 591 275,85</b>	
Public storage	ES	2111, 2112, 2113, 2114	Control deficiencies: 5 % flat-rate correction	EUR	- 2 763 696,91	0,00	- 2 763 696,91	2001-2003
Animal premiums	ES	2220, 2221, 2222	Premium paid to farmers not having the minimum quota rights. One-off correction	EUR	- 78 720,15	0,00	- 78 720,15	2003-2004
Rural development	ES	4000, 4010	Various shortcomings in the management and control system. 5 % flat-rate correction	EUR	- 135 394,00	0,00	- 135 394,00	2002-2003
Financial audit	ES	Miscellaneous	Partial annulment of Commission Decision 2002/461/EC, amount to be reimbursed to Spain.	EUR	451 482,55	0,00	451 482,55	2001
	<b>Total ES</b>				<b>- 2 526 328,51</b>	<b>0,00</b>	<b>- 2 526 328,51</b>	

Sector	Member State	Budget item	Reason	Nat. Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Milk and milk products	FI	2040	Control weakness. 5 % flat-rate correction (1 operator)	EUR	- 65 903,93	0,00	- 65 903,93	2002-2003
Ceiling overshoot	FI	2128	Overshoot of financial ceilings	EUR	- 6 820,82	- 6 820,82	0,00	2003
	<b>Total FI</b>				<b>- 72 724,75</b>	<b>- 6 820,82</b>	<b>- 65 903,93</b>	
Fruit and vegetables	FR	1508	Aid over-estimated (calculated on the basis of quantities loaded rather than quantities marketed), non-application of sanction in respect of claim submitted after the deadline: one-off correction. Non-performance of several key controls: 10 % flat-rate correction	EUR	- 32 072 056,72	0,00	- 32 072 056,72	2002-2004
Public storage	FR	2111, 2112, 2113, 2114	Control deficiencies: 5 % flat-rate correction. Payment delays: one-off correction	EUR	- 7 135 187,50	0,00	- 7 135 187,50	2001-2003
Rural development	FR	4040	Incorrect application of a procedure for verifying one of the conditions of eligibility. One-off correction	EUR	- 870 374,00	0,00	- 870 374,00	2002
	<b>Total FR</b>				<b>- 40 077 618,22</b>	<b>0,00</b>	<b>- 40 077 618,22</b>	
Fruit and vegetables	IT	1501, 1502, 1515	Non-application of sanctions, deficiencies in controls on composting and bio-degradation. 10 % flat-rate correction and one-off correction	EUR	- 30 021 060,00	0,00	- 30 021 060,00	1999-2002
Fruit and vegetables	IT	1512	Non-compliance with payment deadlines. One-off correction	EUR	- 4 414 265,04	0,00	- 4 414 265,04	2002
Fruit and vegetables	IT	1502	Key controls are not applied in the number, frequency, or depth required by the regulations. 5 % flat-rate correction	EUR	- 7 708 059,40	0,00	- 7 708 059,40	2000-2003
Milk and milk products	IT	2040	Non-compliance with the regulations: one-off correction. Control deficiencies: 5 % flat-rate correction. Non-compliance with minimum rate of control: 10 % flat-rate	EUR	- 297 002,44	0,00	- 297 002,44	2002-2004
Arable crops	IT	1040- 1062, 1310, 1858	Failure to apply sanctions. 3 % flat-rate correction	EUR	- 7 975 231,00	0,00	- 7 975 231,00	2002
Arable crops	IT	1040- 1060, 1310, 1858	Poor quality of classical field inspections. 5 % flat-rate correction	EUR	- 603 692,00	- 36 829,00	- 566 863,00	2001-2003

Sector	Member State	Budget item	Reason	Nat. Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Rural development	IT	4000, 4010, 4040	Weaknesses in the management, control and sanctions system. 2 % flat-rate correction	EUR	- 3 748 761,00	0,00	- 3 748 761,00	2001-2002
Payment deadline	IT	Miscellaneous	Failure to meet payment deadlines	EUR	- 30 938 245,66	- 31 631 666,68	693 421,02	2003
	<b>Total IT</b>				<b>- 85 706 316,54</b>	<b>- 31 668 495,68</b>	<b>- 54 037 820,86</b>	
Milk and milk products	NL	2040	Unsatisfactory sampling procedure: 10 % flat-rate correction (1 operator). Incorrect treatment of result of physical checks: one-off correction	EUR	- 158 235,60	0,00	- 158 235,60	2002-2003
	<b>Total NL</b>				<b>- 158 235,60</b>	<b>0,00</b>	<b>- 158 235,60</b>	
Fat	PT	1400, 1402	The control system put in place w as not adequate to prevent irregular practices on the part of all the actors concerned in the flax sector. 100 % financial correction	EUR	- 3 135 348,71	0,00	- 3 135 348,71	2001
	<b>Total PT</b>				<b>- 3 135 348,71</b>	<b>0,00</b>	<b>- 3 135 348,71</b>	
Arable crops	SE	1040, 1062, 1310	Shortcomings in the application of the rules regarding set-aside, incorrect application of technical tolerances, obvious errors applied over-generously. One-off correction.	SEK	- 1 308 192,00	0,00	- 1 308 192,00	2001-2002
	<b>Total SE</b>				<b>- 1 308 192,00</b>	<b>0,00</b>	<b>- 1 308 192,00</b>	
Financial audit	UK	Miscellaneous	Unidentified corrections to be credited to EAGGF. One-off correction	GBP	- 497 130,69	0,00	- 497 130,69	2004
	<b>Total UK</b>				<b>- 497 130,69</b>	<b>0,00</b>	<b>- 497 130,69</b>	