

COMMISSION DECISION

of 8 April 2008

excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF)

(notified under document number C(2008) 1283)

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

(2008/321/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

which has been incurred in a way that has not infringed Community rules may be financed.

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(4) thereof,

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 31 thereof,

Having consulted the Committee on the Agricultural Funds,

Whereas:

(1) Under Article 7(4) of Regulation (EC) No 1258/1999, and Article 31 of Regulation (EC) No 1290/2005, the Commission is to carry out the necessary verifications, communicate to the Member States the results of these verifications, take note of the comments of the Member States, initiate a bilateral discussion so that an agreement may be reached with the Member States in question, and formally communicate its conclusions to them.

(2) The Member States have had an opportunity to request the launch of a conciliation procedure. That opportunity has been used in some cases and the report issued on the outcome has been examined by the Commission.

(3) Under Regulation (EC) No 1258/1999 and Regulation (EC) No 1290/2005, only agricultural expenditure

(4) In the light of the verifications carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil this requirement and cannot, therefore, be financed under the EAGGF Guarantee Section and the European Agricultural Guarantee Fund, hereinafter referred to as EAGF.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section and the EAGF 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 verifications 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.

(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 15 December 2007 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 or under the EAGF shall be excluded from Community financing because it does not comply with Community rules.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

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

Article 2

This Decision is addressed to the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria and the Portuguese Republic.

Done at Brussels, 8 April 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX
Budget item 6701

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
AT	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	- 61 104,20	0,00	- 61 104,20
					TOTAL AT		- 61 104,20	0,00	- 61 104,20
CZ	Financial audit — Overshooting	2006	Overshooting of financial ceilings	one-off		CZK	- 358 046,95	0,00	- 358 046,95
					TOTAL CZ		- 358 046,95	0,00	- 358 046,95
DE	RD guarantee accompanying measures	2003	Overshooting of ceilings	one-off		EUR	- 4 256 495,00	0,00	- 4 256 495,00
DE	Financial audit — Late payments	2006	Late payments	one-off		EUR	- 80 851,39	- 80 851,39	0,00
					TOTAL DE		- 4 337 346,39	- 80 851,39	- 4 256 495,00
DK	Milk powder for casein	2002	Non-respect of all requirements concerning production process	one-off		DKK	- 8 915,00	0,00	- 8 915,00
DK	Milk powder for casein	2003	Non-respect of all requirements concerning production process	one-off		DKK	- 157 528,05	0,00	- 157 528,05
DK	Milk powder for casein	2004	Non-respect of all requirements concerning production process	one-off		DKK	- 98 154,15	0,00	- 98 154,15
					TOTAL DK		- 264 597,20	0,00	- 264 597,20
ES	Certification	2004	Non-recovered debts	one-off		EUR	- 1 882 525,15	0,00	- 1 882 525,15
ES	Fruit and veg — Bananas	2004	Weaknesses (frequency and sampling) in second level quality controls	flat rate	2,00	EUR	- 948 158,64	0,00	- 948 158,64
ES	Fruit and veg — Bananas	2005	Weaknesses (frequency and sampling) in second level quality controls	flat rate	2,00	EUR	- 1 394 194,02	0,00	- 1 394 194,02
ES	Fruit and veg — Bananas	2006	Weaknesses (frequency and sampling) in second level quality controls	flat rate	2,00	EUR	- 406 510,05	0,00	- 406 510,05
ES	Wine Distillation	2003	Weaknesses in the control of the prohibition of any vine plantations	flat rate	10,00	EUR	- 25 824 435,94	0,00	- 25 824 435,94
ES	Wine Distillation	2004	Weaknesses in the control of the prohibition of any vine plantations	flat rate	10,00	EUR	- 29 124 759,86	0,00	- 29 124 759,86
					TOTAL ES		- 59 580 583,66	0,00	- 59 580 583,66

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Fruit and veg — Bananas	2004	Non-respect of certain recognition criteria by producer organisations	flat rate	5,00	EUR	- 780,11		- 780,11
FR	Fruit and veg — Bananas	2005	Non-respect of certain recognition criteria by producer organisations	flat rate	5,00	EUR	- 4 958 177,57	0,00	- 4 958 177,57
FR	Fruit and veg — Bananas	2006	Non-respect of certain recognition criteria by producer organisations	flat rate	5,00	EUR	- 2 263 498,77	0,00	- 2 263 498,77
FR	Fruit and veg — Bananas	2007	Non-respect of certain recognition criteria by producer organisations	flat rate	5,00	EUR	- 3 775 871,38	0,00	- 3 775 871,38
FR	Public storage of sugar	2005	Ineligible quantity declared	one-off		EUR	- 535 626,90	0,00	- 535 626,90
FR	Public storage of sugar	2006	Ineligible quantity declared	one-off		EUR	475 793,12	0,00	475 793,12
FR	Tobacco premiums	2004	Non-application of sanctions	one-off		EUR	- 9 947,35	0,00	- 9 947,35
FR	Tobacco premiums	2005	Non-application of sanctions	one-off		EUR	- 38 983,31	0,00	- 38 983,31
FR	Tobacco premiums	2006	Non-application of sanctions	one-off		EUR	- 85 816,53	0,00	- 85 816,53
				TOTAL FR			- 11 192 908,80	0,00	- 11 192 908,80
IE	Milk powder for casein	2003	Weaknesses in sampling procedure of production batches	flat rate	2,00	EUR	- 209 164,22	0,00	- 209 164,22
IE	Milk powder for casein	2004	Weaknesses in sampling procedure of production batches	flat rate	2,00	EUR	- 423 850,43	0,00	- 423 850,43
IE	Milk powder for casein	2005	Weaknesses in sampling procedure of production batches	flat rate	2,00	EUR	- 131 507,65	0,00	- 131 507,65
				TOTAL IE			- 764 522,30	0,00	- 764 522,30
IT	Export refunds	2003	Lack of information about physical checks	flat rate	5,00	EUR	- 30 905,27	0,00	- 30 905,27
IT	Financial audit — Late payments	2004	Late payments	one-off		EUR	- 308 289,90	0,00	- 308 289,90
IT	RD guarantee accompanying measures	2003	Administrative checks not carried out exhaustively in breach of Article 68 of Regulation (EC) No 817/2004; on-the-spot checks not satisfactory	flat rate	5,00	EUR	- 428 284,00	0,00	- 428 284,00

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
IT	RD guarantee accompanying measures	2003	On-the-spot checks carried out too late in breach of Article 61 of Regulation (EC) No 445/2002	flat rate	5,00	EUR	- 2 985 884,00	0,00	- 2 985 884,00
IT	RD guarantee accompanying measures	2004	Administrative checks not carried out exhaustively in breach of Article 68 of Regulation (EC) No 817/2004; on-the-spot checks not satisfactory	flat rate	5,00	EUR	- 754 180,00	0,00	- 754 180,00
IT	RD guarantee accompanying measures	2004	On-the-spot checks carried out too late in breach of Article 61 of Regulation (EC) No 445/2002	flat rate	5,00	EUR	- 32 396,00	0,00	- 32 396,00
IT	RD guarantee accompanying measures	2005	On-the-spot checks carried out too late in breach of Article 61 of Regulation (EC) No 445/2002	flat rate	5,00	EUR	- 54 645,00	0,00	- 54 645,00
IT	RD guarantee accompanying measures	2006	On-the-spot checks carried out too late in breach of Article 61 of Regulation (EC) No 445/2002	flat rate	5,00	EUR	- 58 709,00	0,00	- 58 709,00
					TOTAL IT		- 4 653 293,17	0,00	- 4 653 293,17
LU	Financial audit — Late payments	2006	Late payments	one-off		EUR	0,00	- 14 516,49	14 516,49
LU	Financial audit — Overshooting	2006	Overshooting of financial ceilings	one-off		EUR	- 1 107 241,81	- 1 107 241,81	0,00
LU	RD guarantee accompanying measures	2004	Weaknesses in the main and secondary controls	flat rate	5,00	EUR	- 484 845,00	0,00	- 484 845,00
LU	RD guarantee accompanying measures	2005	Weaknesses in the main and secondary controls	flat rate	5,00	EUR	- 479 643,00	0,00	- 479 643,00
					TOTAL IU		- 2 071 729,81	- 1 121 758,30	- 949 971,51
NL	Financial audit — Overshooting	2005	Overshooting of financial ceilings	one-off		EUR	- 7 905,99	0,00	- 7 905,99
					TOTAL NL		- 7 905,99	0,00	- 7 905,99
PT	Financial audit — Overshooting	2006	Overshooting of financial ceilings	one-off		EUR	- 271 398,38	0,00	- 271 398,38
					TOTAL PT		- 271 398,38	0,00	- 271 398,38