

COMMISSION IMPLEMENTING DECISION (EU) 2021/871**of 28 May 2021****on the clearance of the accounts of the paying agencies of the United Kingdom concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for financial year 2020 and on the reimbursement of appropriations related to financial discipline, carried over from financial year 2020***(notified under document C(2021) 3685)***(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) 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 ⁽¹⁾, and in particular Articles 26(6) and 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) 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.
- (2) In accordance with Article 39 of Regulation (EU) No 1306/2013, 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 2020, account should be taken of expenditure incurred by the United Kingdom between 16 October 2019 and 15 October 2020, as provided for in Article 11(1) of Commission Implementing Regulation (EU) No 908/2014 ⁽²⁾.
- (3) Article 33(2), first subparagraph, of Implementing Regulation (EU) No 908/2014 provides that the amounts that are recoverable from, or payable to the United Kingdom in accordance with the accounts clearance decision referred to in Article 33(1) of that Regulation, are to be established by deducting the monthly payments for the financial year concerned from expenditure recognised for that year in accordance with Article 33(1).
- (4) The Commission has checked the information submitted by the United Kingdom and has communicated the results of its checks to the United Kingdom, along with the necessary amendments.
- (5) 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.

⁽¹⁾ OJ L 347, 20.12.2013, p. 549.

⁽²⁾ 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).

- (6) In accordance with Article 5(5) of Commission Delegated Regulation (EU) No 907/2014 ⁽³⁾, any overrun of deadlines during August, September and October is to be taken into account in the clearance of accounts decision. Some of the expenditure declared by the United Kingdom during those months in 2020 was effected after the applicable deadlines. This Decision should therefore fix the relevant reductions.
- (7) Pursuant to Article 41 of Regulation (EU) No 1306/2013, the Commission has already reduced or suspended a number of monthly payments for financial year 2020 due to failure to comply with financial ceilings or payment deadlines, or due to control system deficiencies. In this Decision, the Commission should take into account such reduced or suspended amounts in order to avoid making any inappropriate, or untimely, payments or reimbursements which could later be subject to financial correction. The amounts in question may be examined, where appropriate, under conformity clearance proceedings pursuant to Article 52 of Regulation (EU) No 1306/2013.
- (8) The Commission has already reduced the relevant monthly payments for financial year 2020 for the amounts due to the European Agricultural Guarantee Fund (EAGF) as a result of financial and conformity clearance decisions, pursuant to Articles 51 and 52 of Regulation (EU) No 1306/2013, executed by the Commission in financial year 2020. Any such amounts are taken into account in this Decision.
- (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 four years from the date of the recovery request, or within eight 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 four or eight 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 four years from the date of the recovery request or within eight 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 Regulation (EU) No 1306/2013 in conjunction with Article 102(1), first subparagraph, point (c)(iv), 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.
- (12) Commission Implementing Regulation (EU) 2020/1769 ⁽⁴⁾ sets the amounts to be reimbursed to the Member States in financial year 2021 as regards the financial discipline applied in financial year 2020. That reimbursement is financed from the appropriations of the EAGF carried over from financial year 2020 in accordance with Article 12 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁵⁾. In view of Article 135(1) of the Withdrawal Agreement and since the amounts carried over are made available in the 2021 budget, no amount was set in respect of the United Kingdom in Implementing Regulation (EU) 2020/1769. However, as the appropriations were carried over from financial year 2020, when the United Kingdom was still contributing to and participating in the implementation of the Union budget, it is appropriate that the United Kingdom's share of the financial discipline for financial year 2020 amounting to EUR 41 383 278 is reimbursed. That amount should therefore be incorporated in this Decision,

⁽³⁾ Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing 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, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/1769 of 25 November 2020 on the reimbursement, in accordance with Article 26(5) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, of the appropriations carried over from financial year 2020 (OJ L 398, 27.11.2020, p. 4).

⁽⁵⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

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 expenditure financed by the European Agricultural Guarantee Fund (EAGF) in respect of financial year 2020.

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 Annex I to this Decision.

Article 2

The amount to be reimbursed to the United Kingdom as regards the financial discipline applied in financial year 2020 is set out in Annex II.

Article 3

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 4

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

Done at Brussels, 28 May 2021.

For the Commission
Janusz WOJCIECHOWSKI
Member of the Commission

Clearance of the paying agencies' accounts

Financial year 2020 - EAGF

Amount to be recovered from or paid to the United Kingdom

		2020 - Expenditure / Assigned Revenue for the paying agencies for which the accounts are		Total a + b	Reductions, suspensions and other adjustments for executed conformity and financial clearance decisions for the whole financial year 1)	Amount to be charged according to Article 54(2) of Regulation (EU) No 1306/2013 in relation to the EAGF	Total including reductions, suspensions and other adjustments	Payments made to the United Kingdom for the financial year	Amount to be recovered from (-) or paid to (+) the United Kingdom 2)
		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	f=c+d+e	g	h=f-g
UK	GBP	0,00	0,00	0,00	0,00	- 62 451,20	- 62 451,20	0,00	- 62 451,20
UK	EUR	3 197 146 439,98	0,00	3 197 146 439,98	- 5 748 968,67	0,00	3 191 397 471,31	3 192 730 760,53	- 1 333 289,22

		Expenditure 3)	Assigned revenue 3)	Article 54(2) (=e)	Total (=h)
		08 02 06 01	6200	6200	
		i	j	k	l = i+j+k
UK	GBP	0,00	0,00	- 62 451,20	- 62 451,20
UK	EUR	0,00	- 1 333 289,22	0,00	- 1 333 289,22

- 1) The reductions and suspensions are those taken into account in the payment system, to which are added in particular the corrections for the non respect of payment deadlines established in August, September and October 2020 and other reductions in the context of Article 41 of Regulation (EU) No 1306/2013.
- 2) 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.
- 3) 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 2021 : 08 02 06 01 , 6200

ANNEX II

Reimbursement of appropriations carried-over from financial year 2020 in relation to financial discipline

	(amounts in EUR)
United Kingdom	41 383 278,00