

## COMMISSION DECISION

of 15 May 2003

**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(2003) 1539)*

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

(2003/364/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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1287/95 <sup>(2)</sup>, 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 <sup>(3)</sup>, 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 <sup>(4)</sup>, as last amended by Regulation (EC) No 2025/2001 <sup>(5)</sup>, 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 <sup>(6)</sup>, as last amended by Decision 2001/535/EC <sup>(7)</sup>.

(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.

(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 28 February 2003 and relating to its content,

<sup>(1)</sup> OJ L 94, 28.4.1970, p. 13.

<sup>(2)</sup> OJ L 125, 8.6.1995, p. 1.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 103.

<sup>(4)</sup> OJ L 158, 8.7.1995, p. 6.

<sup>(5)</sup> OJ L 274, 17.10.2001, p. 3.

<sup>(6)</sup> OJ L 182, 16.7.1994, p. 45.

<sup>(7)</sup> OJ L 193, 17.7.2001, p. 25.

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 Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Austria and the Portuguese Republic.

Done at Brussels, 15 May 2003.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

  

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## ANNEX

## Total corrections

Sector	Member State	Budget item	Reason	Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Agri-environmental measures	A	5011	Ad hoc correction — shortcomings in the management of recoveries	EUR	63 531,00	0,00	63 531,00	1999
	<b>Total A</b>				<b>63 531,00</b>	<b>0,00</b>	<b>63 531,00</b>	
Livestock premiums	E	2120-2125	Flat-rate corrections (2 % and 5 % accredited to budget items) shortcomings in key controls and secondary controls	EUR	49 025,30	0,00	49 025,30	2000
Livestock premiums	E	2124,2128	Flat-rate corrections (2 %, 5 % and 10 % accredited to autonomous communities) shortcomings in key controls and secondary controls	EUR	2 850 510,00	0,00	2 850 510,00	2000
	<b>Total E</b>				<b>2 899 535,30</b>	<b>0,00</b>	<b>2 899 535,30</b>	
Livestock premiums	D	2120-2125	Flat-rate corrections of 2 % — shortcomings in secondary controls	EUR	804 200,60	0,00	804 200,60	1998-1999
Emergency BSE payments	D	2190	Ad hoc correction in connection with Regulation (EC) No 2443/96	EUR	1 037,41	1 037,41	0,00	1998
Financial audit	D	miscellaneous	Materiality threshold for errors exceeded	EUR	927 401,00	0,00	927 401,00	2000
	<b>Total D</b>				<b>1 732 639,01</b>	<b>1 037,41</b>	<b>1 731 601,60</b>	
Financial audit	F	4081	Adjustment	EUR	44 560,42	44 560,42	0,00	2001
Wine and tobacco	F	1611-1630	Failure to comply with legislation: spirits	EUR	1 412 550,00	0,00	1 412 550,00	1999-2000
Wine and tobacco	F	1611-1630	Failure to comply with legislation: concentrated must and rectified concentrated must	EUR	23 146 858,00	0,00	23 146 858,00	1999-2000
	<b>Total F</b>				<b>24 603 968,42</b>	<b>44 560,42</b>	<b>24 559 408,00</b>	
Arable crops	EL	1041-1062 1310,1858	Flat-rate corrections of 5 % for unsound management and lack of key controls	EUR	57 294 195,00	24 146 701,10	33 147 493,90	2000-2001
	<b>Total EL</b>				<b>57 294 195,00</b>	<b>24 146 701,10</b>	<b>33 147 493,90</b>	

Sector	Member State	Budget item	Reason	Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Beekeeping	IRL	2320/2540	Non-eligible expenditure	EUR	16 986,67	0,00	16 986,67	1999-2001
	<b>Total IRL</b>				<b>16 986,67</b>	<b>0,00</b>	<b>16 986,67</b>	
Livestock premiums	I	2120-2125	Ad hoc correction: failure to impose penalties	EUR	3 842 890,00	0,00	3 842 890,00	1999-2000
Arable crops	I	1041-1062 1310,1858	Flat-rate correction of 2 % — shortcomings in secondary controls	EUR	75 966 670,00	0,00	75 966 670,00	2000-2001
Financial audit	I	4072	Amended correction — Calabria region	EUR		9 579,24	– 9 579,24	2001
Financial audit	I	4072	Correction for payments not in compliance with Regulation (EEC) No 2080/92	EUR	56 152,28	0,00	56 152,28	2001
Financial audit	I	4072	Shortcomings in the management of advance payments and guarantees	EUR	82 259,70	0,00	82 259,70	2001
	<b>Total I</b>				<b>79 947 971,98</b>	<b>9 579,24</b>	<b>79 938 392,74</b>	
Livestock premiums	P	2120-2125 3211	Flat-rate corrections (2 % and 5 % accredited to budget items) shortcomings in key controls and secondary controls	EUR	2 446 684,20	0,00	2 446 684,20	1999
	<b>Total P</b>				<b>2 446 684,20</b>	<b>0,00</b>	<b>2 446 684,20</b>	