

COMMISSION

COMMISSION DECISION

of 18 April 2007

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(2007) 1663)

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

(Text with EEA relevance)

(2007/243/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 ⁽¹⁾, 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 ⁽²⁾, and in particular Article 7(4) thereof,

Having consulted the Committee on the Agricultural Funds,

Whereas:

(1) Under Article 5 of Council 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 Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section ⁽³⁾, 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 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.

(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 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 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 25 January 2007 and relating to its content,

⁽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 465/2005 (OJ L 77, 23.3.2005, p. 6).

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 Kingdom of Denmark, 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 Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 18 April 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Total corrections — Budget item 6 7 0 1

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
AT	Financial audit — Overshooting	2005	Overshooting of financial ceilings	one-off		EUR	- 577,47	- 577,47	0,00
	Total AT					EUR	- 577,47	- 577,47	0,00
BE	Clearance of accounts	2001	Clearance of 2001 accounts	one-off		EUR	- 45 922,50	- 45 922,50	0,00
BE	Clearance of accounts	2003	Clearance of 2003 accounts	one-off		EUR	- 53 786,11	- 29 109,11	- 24 677,00
	Total BE					EUR	- 99 708,61	- 75 031,61	- 24 677,00
DE	Clearance of accounts	2003	Clearance of 2003 accounts	one-off		EUR	- 2 372 552,57	0,00	- 2 372 552,57
DE	Clearance of accounts	2004	Clearance of 2004 accounts	one-off		EUR	- 848 720,33	0,00	- 848 720,33
DE	Clearance of accounts	2005	Clearance of 2005 accounts	one-off		EUR	- 1 475 549,22	0,00	- 1 475 549,22
DE	Financial audit — Late payments	2005	Failure to meet payment deadlines	one-off		EUR	- 123 145,69	- 188 245,69	65 100,00
DE	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	- 134 267,39	0,00	- 134 267,39
	Total DE					EUR	- 4 954 235,20	- 188 245,69	- 4 765 989,51
DK	Export Refunds	2000	Inadequate implementation of substitution checks	flat-rate	2 %	DKK	- 4 042 587,64	0,00	- 4 042 587,64
DK	Export Refunds	2000	Inadequate implementation of substitution checks	flat-rate	5 %	DKK	- 1 694 642,72	0,00	- 1 694 642,72
DK	Export Refunds	2001	Inadequate implementation of substitution checks	flat-rate	2 %	DKK	- 11 636 374,73	0,00	- 11 636 374,73
DK	Export Refunds	2001	Inadequate implementation of substitution checks	flat-rate	5 %	DKK	- 5 847 108,45	0,00	- 5 847 108,45
DK	Export Refunds	2002	Inadequate implementation of substitution checks	flat-rate	2 %	DKK	- 14 620 538,05	0,00	- 14 620 538,05
DK	Export Refunds	2002	Inadequate implementation of substitution checks	flat-rate	5 %	DKK	- 6 732 926,94	0,00	- 6 732 926,94
DK	Export Refunds	2003	Inadequate implementation of substitution checks	flat-rate	2 %	DKK	- 3 239 587,36	0,00	- 3 239 587,36

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
DK	Export Refunds	2003	Inadequate implementation of substitution checks	flat-rate	5 %	DKK	-1 450 243,99	0,00	- 1 450 243,99
DK	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	- 68 177,57	- 68 177,57	0,00
	Total DK					DKK	-49 264 009,88	0,00	-49 264 009,88
	Total DK					EUR	- 68 177,57	-68 177,57	0,00
ES	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	- 9 070 409,96	- 9 197 146,98	126 737,02
ES	Financial audit — Late payments	2005	Failure to meet payment deadlines	one-off		EUR	- 7 923 714,21	- 7 940 441,61	16 727,40
ES	Financial audit — Overshooting	2005	Overshooting of financial ceilings	one-off		EUR	339 296,14	339 296,14	0,00
ES	Fruit and Veg — Nuts (other measures)	2003	Non-respect of payment deadlines	one-off		EUR	-28 111 606,97	0,00	- 28 111 606,97
ES	Fruit and Veg — Nuts (other measures)	2004	Non-respect of payment deadlines	one-off		EUR	- 32 542 235,13	0,00	- 32 542 235,13
ES	Fruit and Veg — Tomato Processing	2003	Tomatoes delivered outside the regular daytime working hours of the competent authorities could not be adequately controlled, insufficient reconciliation of records with official bookkeeping	flat-rate	5 %	EUR	-1 850 032,92	0,00	- 1 850 032,92
ES	Fruit and Veg — Tomato Processing	2004	Tomatoes delivered outside the regular daytime working hours of the competent authorities could not be adequately controlled, insufficient reconciliation of records with official bookkeeping	flat-rate	5 %	EUR	- 2 240 283,54	0,00	- 2 240 283,54
ES	Promotional Measures	2003	Ineligibility of a programme	one-off		EUR	- 20 244,02	0,00	- 20 244,02
ES	Promotional Measures	2004	Ineligibility of a programme	one-off		EUR	- 70 997,92	0,00	- 70 997,92
ES	Promotional Measures	2003	Deficiencies in accounting and technical controls	flat-rate	10 %	EUR	- 438 782,10	0,00	- 438 782,10
ES	Promotional Measures	2004	Deficiencies in accounting and technical controls	flat-rate	10 %	EUR	- 500 158,94	0,00	- 500 158,94

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
ES	Promotional Measures	2005	Deficiencies in accounting and technical controls	flat-rate	10 %	EUR	- 262 486,51	0,00	- 262 486,51
ES	Promotional Measures	2006	Deficiencies in accounting and technical controls	flat-rate	10 %	EUR	- 32 893,85	0,00	- 32 893,85
Total ES						EUR	- 82 724 549,93	- 16 798 292,45	- 65 926 257,48
FR	OTMS	2001	Deficient and missing physical control of the operations	flat-rate	10 %	EUR	- 2 150 231,66	0,00	- 2 150 231,66
FR	OTMS	2002	Deficient and missing physical control of the operations	flat-rate	10 %	EUR	- 4 742 809,12	0,00	- 4 742 809,12
FR	OTMS	2003	Deficient and missing physical control of the operations	flat-rate	10 %	EUR	- 1 792 725,04	0,00	- 1 792 725,04
FR	Fruit and Veg — Peaches & Pears Processing	2003	Several payments have been made outside the regulatory deadline	one-off		EUR	- 22 494,75	0,00	- 22 494,75
FR	Public Storage of Alcohol	2001	Non-respect of payment deadlines	one-off		EUR	- 2 226,40	0,00	- 2 226,40
FR	Public Storage of Alcohol	2002	Non-respect of payment deadlines	one-off		EUR	- 14 188,94	0,00	- 14 188,94
FR	RD Guarantee new measures	2003	Weaknesses in secondary controls	flat-rate	2 %	EUR	- 1 995 633,00	0,00	- 1 995 633,00
FR	RD Guarantee new measures	2003	Weaknesses in the control system for subsidized-interestloans: insufficient control of payment proofs and of the reality of investments	flat-rate	5 %	EUR	- 2 931 588,00	0,00	- 2 931 588,00
FR	RD Guarantee new measures	2004	Weaknesses in secondary controls	flat-rate	2 %	EUR	- 2 568 245,00	0,00	- 2 568 245,00
Total FR						EUR	- 16 220 141,91	0,00	- 16 220 141,91
GR	Direct Payments	2004	LPMS was not fully operational to the standard required and the on-the-spot checks were still carried out too late to be fully effective	flat-rate	5 %	EUR	- 14 991 119,26	0,00	- 14 991 119,26

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
GR	Direct Payments	2004	LPIS was not fully operational to the standard required and the on-the-spot checks were still carried out too late to be fully effective	flat-rate	10 %	EUR	- 20 792 615,42	0,00	- 20 792 615,42
GR	Direct Payments	2005	LPIS was not fully operational to the standard required and the on-the-spot checks were still carried out too late to be fully effective	flat-rate	5 %	EUR	- 27 702,71	0,00	- 27 702,71
GR	Direct Payments	2005	LPIS was not fully operational to the standard required and the on-the-spot checks were still carried out too late to be fully effective	flat-rate	10 %	EUR	- 30 657,51	0,00	- 30 657,51
GR	Fruit and Veg — Tomato Processing	2003	Data indicated in the records have not been reconciled with the official accounts of the producer organisation; data was transmitted by a producer organisation without the information regarding the yield	flat-rate	5 %	EUR	- 1 231,08	0,00	- 1 231,08
GR	Fruit and Veg — Tomato Processing	2004	Data indicated in the records have not been reconciled with the official accounts of the producer organisation; data was transmitted by a producer organisation without the information regarding the yield	flat-rate	5 %	EUR	- 417 259,82	0,00	- 417 259,82
GR	POSEI	2003	Insufficient proof that the benefit of the aid has been passed on to the end-user, insufficient controls at arrival of products to the island, absence of IACS	flat-rate	5 %	EUR	- 952 833,44	0,00	- 952 833,44
GR	POSEI	2004	Insufficient proof that the benefit of the aid has been passed on to the end-user, insufficient controls at arrival of products to the island, absence of IACS	flat-rate	5 %	EUR	- 952 833,58	0,00	- 952 833,58
GR	RD Guarantee Accompanying Measures	2001	Total of monthly declarations exceeds the amount of the annual declaration	one-off		EUR	- 67 732,00	0,00	- 67 732,00
	Total GR					EUR	- 38 233 984,82	0,00	- 38 233 984,82

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
IE	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	-1 021 717,84	-1 232 358,00	210 640,16
IE	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	-122 295,66	-122 295,66	0,00
IE	Milk Powder for Casein	2002	Insufficient control of production process	flat-rate	5 %	EUR	-676 675,34	0,00	-676 675,34
IE	Milk Powder for Casein	2003	Insufficient control of production process	flat-rate	5 %	EUR	-1 444 677,65	0,00	-1 444 677,65
IE	Milk Powder for Casein	2004	Insufficient control of production process	flat-rate	5 %	EUR	-378 635,48	0,00	-378 635,48
	Total IE					EUR	-3 644 001,97	-1 354 653,66	-2 289 348,31
IT	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	-48 554 937,39	-48 865 275,10	310 337,71
IT	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	-47 896,46	-47 896,46	0,00
IT	RD Guarantee new measures	2003	Insufficient controls on the minimum standards, incomplete risk analysis for the selection of beneficiaries to be checked on-the-spot	flat-rate	2 %	EUR	-292 013,00	0,00	-292 013,00
IT	Wine — Restructuring	2003	Overestimation of the vine growing area	one-off		EUR	-791 044,51	0,00	-791 044,51
IT	Wine — Restructuring	2004	Overestimation of the vine growing area	one-off		EUR	-1 587 599,85	0,00	-1 587 599,85
	Total IT					EUR	-51 273 491,21	-48 913 171,56	-2 360 319,65
LU	Financial audit — Late payments	2005	Failure to meet payment deadlines	one-off		EUR	-89 099,53	-89 099,53	0,00
LU	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	-132 471,39	-42 350,66	-90 120,73
LU	Financial audit — Overshooting	2005	Overshooting of financial ceilings	one-off		EUR	-14 637,53	-14 637,53	0,00
	Total LU					EUR	-236 208,45	-146 087,72	-90 120,73
NL	Clearance of accounts	2003	Clearance of 2003 accounts	one-off		EUR	-159 196,13	0,00	-159 196,13
NL	Export Refunds	1999	Insufficient number of substitution controls	flat-rate	5 %	EUR	-1 337 421,43	0,00	-1 337 421,43

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
NL	Export Refunds	2000	Insufficient number of substitution controls	flat-rate	5 %	EUR	- 15 460 584,91	0,00	- 15 460 584,91
NL	Export Refunds	2001	Insufficient number of substitution controls	flat-rate	5 %	EUR	- 9 866 616,71	0,00	- 9 866 616,71
	Total NL					EUR	- 26 823 819,18	0,00	- 26 823 819,18

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
FI	Financial audit — Late payments	2005	Failure to meet payment deadlines	one-off		EUR	- 59 957,06	- 930 760,36	870 803,30
FI	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	- 4 383,80	- 4 383,80	0,00
	Total FI					EUR	- 64 340,86	- 935 144,16	870 803,30
GB	Financial audit — Late payments	2003	Failure to meet payment deadlines	one-off		EUR	- 18 692,31	0,00	- 18 692,31
GB	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	- 53 718 181,34	- 54 438 176,05	719 994,71
GB	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	- 177 600,74	- 177 600,74	0,00
GB	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		GBP	- 5 043,95	- 5 043,95	0,00
GB	Recoveries	2003	Incorrect classification of irregularities	one-off		GBP	- 23 387,80	0,00	- 23 387,80
	Total GB					EUR	- 53 914 474,39	- 54 615 776,79	701 302,40
	Total GB					GBP	- 28 431,75	- 5 043,95	- 23 387,80
PT	Financial audit — Late payments	2005	Failure to meet payment deadlines	one-off		EUR	- 400 433,43	- 521 198,20	120 764,77
PT	Financial audit — Overshooting	2003	Overshooting of financial ceilings	one-off		EUR	- 30 352,11	0,00	- 30 352,11
PT	Financial audit — Overshooting	2004	Overshooting of financial ceilings	one-off		EUR	- 139,80	- 139,80	0,00
	Total PT					EUR	- 430 925,34	- 521 338,00	90 412,66