

COMMISSION IMPLEMENTING DECISION

of 22 June 2012

on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD)

(notified under document C(2012) 3838)

(only the Danish, Dutch, English, Estonian, French, German, Greek, Italian, Polish, Portuguese, Romanian, Slovenian and Spanish texts are authentic)

(2012/336/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 reports issued on the outcome have been examined by the Commission.
- (3) Under Regulation (EC) No 1258/1999 and Regulation (EC) No 1290/2005, only agricultural expenditure which has been incurred in a way that has not infringed European Union rules 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 this requirement and cannot, therefore, be financed under the EAGGF Guarantee Section, the EAGF and the EAFRD.
- (5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section, the EAGF and the EAFRD should be indicated. Those amounts do not

relate to expenditure incurred more than 24 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 European Union 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 1 February 2012 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, under the EAGF or under the EAFRD shall be excluded from European Union financing because it does not comply with European Union rules.

Article 2

This Decision is addressed to the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 22 June 2012.

For the Commission

Dacian CIOLOȘ

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

⁽²⁾ OJ L 209, 11.8.2005, p. 1.

ANNEX

BUDGET ITEM: 6 7 0 1

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
DE	Clearance of accounts	2008	overpayments in the EAGF IACS population	ONE-OFF		EUR	- 59 318,36	0,00	- 59 318,36
Total DE						EUR	- 59 318,36	0,00	- 59 318,36
DK	Other Direct Aid — Bovines	2007	non-application of sanctions regarding potentially eligible animals	ONE-OFF		EUR	- 67 797,32	0,00	- 67 797,32
DK	Other Direct Aid — Bovines	2008	non-application of sanctions regarding potentially eligible animals	ONE-OFF		EUR	- 48 411,25	0,00	- 48 411,25
Total DK						EUR	- 116 208,57	0,00	- 116 208,57
ES	Rural Development EAGGF (2000-2006) — Area related measures	2006	deficiencies in the on-the-spot checks, in the measurement of agricultural parcels, in application of Good Farming Practices in the measure of agri-environment	FLAT RATE	5,00 %	EUR	- 350 224,00	0,00	- 350 224,00
ES	Rural Development EAGGF (2000-2006) — Area related measures	2006	insufficient random selection, deficiencies in the on the spot checks, in the measurement of agricultural parcels, in application of Good Farming Practices in the measure of less-favoured areas	FLAT RATE	5,00 %	EUR	- 710 805,00	0,00	- 710 805,00
ES	Wine		plantation of vine without the (re-)plantation rights	ONE-OFF		EUR	- 131 300 920,00	0,00	- 131 300 920,00
Total ES						EUR	- 132 361 949,00	0,00	- 132 361 949,00
FR	Other Direct Aid — Bovines	2005	shortcomings in the verification of the eligibility conditions, non-application of penalties, unsatisfactory checking of the movements, deficiencies in the application of notion of obvious error and in the acces to BDNI for slaughterhouses	FLAT RATE	2,00 %	EUR	- 17 088 517,03	0,00	- 17 088 517,03

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
FR	Other Direct Aid — Bovines	2005	shortcomings in the verification of the eligibility conditions, non-application of penalties, unsatisfactory checking of the movements, deficiencies in the application of notion of obvious error and in the acces to BDNI for slaughterhouses	ONE-OFF		EUR	- 12 394 594,82	0,00	- 12 394 594,82
FR	Other Direct Aid — Bovines	2006	shortcomings in the verification of the eligibility conditions, non-application of penalties, unsatisfactory checking of the movements, deficiencies in the application of notion of obvious error and in the acces to BDNI for slaughterhouses	FLAT RATE	2,00 %	EUR	- 16 233 350,64	0,00	- 16 233 350,64
FR	Other Direct Aid — Bovines	2006	shortcomings in the verification of the eligibility conditions, non-application of penalties, unsatisfactory checking of the movements, deficiencies in the application of notion of obvious error and in the acces to BDNI for slaughterhouses	ONE-OFF		EUR	- 8 732 969,42	0,00	- 8 732 969,42
FR	Other Direct Aid — Bovines	2007	shortcomings in the verification of the eligibility conditions, non-application of penalties, unsatisfactory checking of the movements, deficiencies in the application of notion of obvious error and in the acces to BDNI for slaughterhouses	FLAT RATE	2,00 %	EUR	- 3 367 782,68	0,00	- 3 367 782,68
FR	Other Direct Aid — Bovines	2007	shortcomings in the verification of the eligibility conditions, non-application of penalties, unsatisfactory checking of the movements, deficiencies in the application of notion of obvious error and in the acces to BDNI for slaughterhouses	ONE-OFF		EUR	- 5 102 086,06	0,00	- 5 102 086,06
Total FR						EUR	- 62 919 300,65	0,00	- 62 919 300,65
GB	Meat Premiums — Bovines	2004	no sanctions applied in case of non-compliance related to claimed above quota	ONE-OFF		GBP	- 15 517,23	0,00	- 15 517,23
GB	Meat Premiums — Ewe and Goats	2004	payments to claimants with less than 10 quota rights	ONE-OFF		GBP	- 10 647,81	0,00	- 10 647,81

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
GB	Meat Premiums — Bovines	2005	no sanctions applied in case of non-compliance related to claimed above quota	ONE-OFF		GBP	- 6 790,67	0,00	- 6 790,67
GB	Meat Premiums — Ewe and Goats	2005	payments to claimants with less than 10 quota rights	ONE-OFF		GBP	- 3 492,44	0,00	- 3 492,44
GB	Meat Premiums — Ewe and Goats	2005	payments to claimants with less than 10 quota rights, penalty for missing animals was not applied to the national envelope	ONE-OFF		GBP	- 9 451,43	0,00	- 9 451,43
GB	Sugar — Production refunds	2007	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	- 19,13	0,00	- 19,13
GB	Sugar — other than Export refunds (2007+)	2007	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	- 26,49	0,00	- 26,49
GB	Export refunds — Sugar and isoglucose	2007	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	- 726,63	0,00	- 726,63
GB	Export refunds — other	2007	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	- 227,75	0,00	- 227,75
GB	Export refunds — other	2008	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	- 26,39	0,00	- 26,39
GB	Sugar — Production refunds	2008	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	0,86	0,00	0,86
GB	Export refunds — Sugar and isoglucose	2008	deficiency in substitution checks	FLAT RATE	5,00 %	EUR	- 557,68	0,00	- 557,68
Total GB						GBP	- 45 899,58	0,00	- 45 899,58
Total GB						EUR	- 1 583,21	0,00	- 1 583,21

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
GR	Export refunds — Sugar and isoglucose	2006	absence of production and storage control systems	FLAT RATE	10,00 %	EUR	- 1 800 082,70	0,00	- 1 800 082,70
GR	Export refunds — Non-Annex I	2006	absence of production and storage control systems	FLAT RATE	10,00 %	EUR	- 12 890,85	0,00	- 12 890,85
GR	Export refunds — Non-Annex I	2006	absence of production and storage control systems	FLAT RATE	15,00 %	EUR	- 66 216,34	0,00	- 66 216,34
GR	Export refunds — Sugar and isoglucose	2006	absence of production and storage control systems	FLAT RATE	15,00 %	EUR	- 7 117 284,53	0,00	- 7 117 284,53
GR	Export refunds — Sugar and isoglucose	2007	absence of production and storage control systems	FLAT RATE	10,00 %	EUR	- 2 522 082,75	0,00	- 2 522 082,75
GR	Export refunds — Non-Annex I	2007	absence of production and storage control systems	FLAT RATE	10,00 %	EUR	- 57 587,78	0,00	- 57 587,78
GR	Export refunds — Sugar and isoglucose	2008	absence of production and storage control systems	FLAT RATE	10,00 %	EUR	- 515,62	0,00	- 515,62
GR	Export refunds — Non-Annex I	2008	absence of production and storage control systems	FLAT RATE	10,00 %	EUR	- 3 633,19	0,00	- 3 633,19
GR	Other Direct Aid — Processed dried grape products (other measures)	2007	weaknesses with regards to minimum yield, delivery requirements, checks on processors, cross-checks	ONE-OFF		EUR	- 71 253 223,81	0,00	- 71 253 223,81

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
GR	Other Direct Aid — Processed dried grape products (other measures)	2008	weaknesses with regards to minimum yield, delivery requirements, checks on processors, cross-checks	ONE-OFF		EUR	- 250 325,81	0,00	- 250 325,81
GR	Other Direct Aid — Processed dried grape products (other measures)	2009	weaknesses with regards to minimum yield, delivery requirements, checks on processors, cross-checks	ONE-OFF		EUR	- 2 192,34	0,00	- 2 192,34
GR	Fruit and Vegetables — Citrus Processing	2007	Insufficient number of administrative controls and non-application of sanctions	FLAT RATE	5,00 %	EUR	- 255 264,74	0,00	- 255 264,74
GR	Fruit and Vegetables — Citrus Processing	2008	Insufficient number of administrative controls and non-application of sanctions	FLAT RATE	5,00 %	EUR	- 258 047,81	0,00	- 258 047,81
GR	Wine		plantation of vine without the (re-)plantation rights	ONE-OFF		EUR	- 21 336 120,00	0,00	- 21 336 120,00
Total GR						EUR	- 104 935 468,27	0,00	- 104 935 468,27
IT	Fruit and Vegetables — Citrus Processing	2006	weaknesses in the control system (administrative and accounting checks)	FLAT RATE	5,00 %	EUR	- 1 683 981,22	0,00	- 1 683 981,22
IT	Fruit and Vegetables — Citrus Processing	2007	weaknesses in the control system (administrative and accounting checks)	FLAT RATE	5,00 %	EUR	- 1 100 328,66	0,00	- 1 100 328,66
IT	Fruit and Vegetables — Tomato Processing	2006	insufficient check of tomato production yield	FLAT RATE	2,00 %	EUR	- 3 510 182,04	0,00	- 3 510 182,04
IT	Fruit and Vegetables — Tomato Processing	2007	insufficient check of tomato production yield	FLAT RATE	2,00 %	EUR	- 2 679 963,75	0,00	- 2 679 963,75

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
IT	Fruit and Vegetables — Tomato Processing	2008	insufficient check of tomato production yield	FLAT RATE	2,00 %	EUR	- 2 556 488,30	0,00	- 2 556 488,30
IT	Olive Oil — Work programmes of operators' organisations	2007	payments made after the regulatory deadline	ONE-OFF		EUR	- 515 252,59	0,00	- 515 252,59
IT	RD Guarantee Accompanying Measures (area related measures)	2005	Article 25 (1) of Regulation (EC) No 796/2004 not respected in case of the announcement of the on-the-spot checks in Calabria region	FLAT RATE	2,00 %	EUR	- 160 616,00	0,00	- 160 616,00
IT	Rural Development EAGGF (2000-2006) — Area related measures	2006	Article 25 (1) of Regulation (EC) No 796/2004 not respected in case of the announcement of the on-the-spot checks in Calabria region	FLAT RATE	2,00 %	EUR	- 60 045,00	0,00	- 60 045,00
IT	Rural Development EAGGF (2000-2006) — Area related measures	2006	late on-the-spot checks for agri-envi measures, Article 25 (1) of Regulation (EC) No 796/2004 not respected in case of the announcement of the on-the-spot checks in Puglia region	FLAT RATE	2,00 %	EUR	- 308 332,00	0,00	- 308 332,00
IT	Rural Development EAGGF (2000-2006) — Area related measures	2006	late on-the-spot checks for agri-envi measures, Article 25 (1) of Regulation (EC) No 796/2004 not respected in case of the announcement of the on-the-spot checks in Puglia region	FLAT RATE	5,00 %	EUR	- 82 920,00	0,00	- 82 920,00
IT	Rural Development EAGGF (2000-2006) — Area related measures	2007	late on-the-spot checks for agri-envi measures, Article 25 (1) of Regulation (EC) No 796/2004 not respected in case of the announcement of the on-the-spot checks in Puglia region	FLAT RATE	2,00 %	EUR	- 3 985,00	0,00	- 3 985,00
IT	Wine		plantation of vine without the (re-)plantation rights	ONE-OFF		EUR	- 98 881 120,00	0,00	- 98 881 120,00
Total IT						EUR	- 111 543 214,56	0,00	- 111 543 214,56

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
NL	Clearance of accounts	2007	wrongful transfer of the rights of one certificate leading to wrongful payment of export refunds	ONE-OFF		EUR	- 81 004,00	0,00	- 81 004,00
Total NL						EUR	- 81 004,00	0,00	- 81 004,00
PL	Cross Compliance	2006	some GAEC not defined and weaknesses in sanctioning system (claim year 2005)	FLAT RATE	10,00 %	PLN	- 9 462 163,58	- 298 039,22	- 9 164 124,36
PL	Cross Compliance	2007	some GAEC not defined (claim year 2006)	FLAT RATE	5,00 %	EUR	- 3 231 141,53	- 76 634,50	- 3 154 507,03
PL	Cross Compliance	2007	some GAEC not defined and weaknesses in sanctioning system (claim year 2005)	FLAT RATE	10,00 %	EUR	- 3 730,29	- 117,50	- 3 612,79
PL	Cross Compliance	2008	some GAEC not defined (claim year 2006)	FLAT RATE	5,00 %	EUR	3 168,04	0,00	3 168,04
PL	Cross Compliance	2008	some GAEC not defined (claim year 2007)	FLAT RATE	5,00 %	EUR	- 6 242 027,29	0,00	- 6 242 027,29
PL	Cross Compliance	2008	some GAEC not defined and weaknesses in sanctioning system (claim year 2005)	FLAT RATE	10,00 %	EUR	- 602,58	0,00	- 602,58
PL	Cross Compliance	2009	some GAEC not defined (claim year 2006)	FLAT RATE	5,00 %	EUR	- 585,38	0,00	- 585,38
PL	Cross Compliance	2009	some GAEC not defined (claim year 2007)	FLAT RATE	5,00 %	EUR	- 7 875,92	0,00	- 7 875,92
Total PL						PLN	- 9 462 163,58	- 298 039,22	- 9 164 124,36
Total PL						EUR	- 9 482 794,95	- 76 752,00	- 9 406 042,95

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
PT	Other Direct Aid — Bovines	2005	population excluded from on-the-spot checks	FLAT RATE	5,00 %	EUR	- 43 659,00	0,00	- 43 659,00
PT	Other Direct Aid — Ewe and Goats	2007	amounts paid for less than 10 quota rights	ONE-OFF		EUR	- 831,83	0,00	- 831,83
PT	Other Direct Aid — Bovines	2007	non-application of sanctions	ONE-OFF		EUR	- 24 450,00	0,00	- 24 450,00
PT	Other Direct Aid — Bovines	2008	non-application of sanctions	ONE-OFF		EUR	- 41 350,00	0,00	- 41 350,00
Total PT						EUR	- 110 290,83	0,00	- 110 290,83
SI	Clearance of accounts	2008	non-recovered amounts for errors in the EAGF IACS population	ONE-OFF		EUR	- 8 014,42	0,00	- 8 014,42
Total SI						EUR	- 8 014,42	0,00	- 8 014,42
6 7 0 1 Total						GBP	- 45 899,58	0,00	- 45 899,58
						PLN	- 9 462 163,58	- 298 039,22	- 9 164 124,36
						EUR	- 421 619 146,82	- 76 752,00	- 421 542 394,82

BUDGET ITEM: 6 7 1 1

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
DE	Clearance of accounts	2008	known errors in the EAFRD IACS population	ONE-OFF		EUR	- 4 599,05	0,00	- 4 599,05
DE	Clearance of accounts	2008	known errors in the EAFRD non-IACS population	ONE-OFF		EUR	- 99 505,49	0,00	- 99 505,49

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
DE	Clearance of accounts	2007	overpayments in the EAFRD	ONE-OFF		EUR	- 6 422,93	0,00	- 6 422,93
Total DE						EUR	- 110 527,47	0,00	- 110 527,47
EE	Rural Development EAFRD Axis 1 + 3 — Investment orientated measures (2007-2013)	2008	control weaknesses	FLAT RATE	5,00 %	EUR	- 219 399,90	0,00	- 219 399,90
EE	Rural Development EAFRD Axis 1 + 3 — Investment orientated measures (2007-2013)	2009	control weaknesses	FLAT RATE	5,00 %	EUR	- 432 949,15	0,00	- 432 949,15
EE	Rural Development EAFRD Axis 4 LEADER (2007-2013)	2009	control weaknesses	FLAT RATE	5,00 %	EUR	- 54 631,06	0,00	- 54 631,06
EE	Rural Development EAFRD Axis 4 LEADER (2007-2013)	2010	control weaknesses	FLAT RATE	5,00 %	EUR	- 90 905,20	0,00	- 90 905,20
Total EE						EUR	- 797 885,31	0,00	- 797 885,31
IT	Rural Development EAFRD Axis 2 (2007-2013, area related measures)	2008	late on-the-spot checks for agri-envi measures, Article 25 (1) of Regulation (EC) No 796/2004 not respected in case of the announcement of the on-the-spot checks in Puglia region	FLAT RATE	2,00 %	EUR	- 46 958,00	0,00	- 46 958,00
Total IT						EUR	- 46 958,00	0,00	- 46 958,00
PL	Cross Compliance	2008	some GAEC not defined (claim year 2007)	FLAT RATE	5,00 %	EUR	- 1 577 692,31	0,00	- 1 577 692,31
PL	Cross Compliance	2009	some GAEC not defined (claim year 2007)	FLAT RATE	5,00 %	EUR	- 2 873,42	0,00	- 2 873,42
Total PL						EUR	- 1 580 565,73	0,00	- 1 580 565,73

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
PT	Clearance of accounts	2008	most likely error	ONE-OFF		EUR	- 507 308,00	0,00	- 507 308,00
PT	Clearance of accounts	2008	systematic error	ONE-OFF		EUR	- 897 367,00	0,00	- 897 367,00
PT	Clearance of accounts	2008	systematic error - RURIS	ONE-OFF		EUR	- 590,00	0,00	- 590,00
Total PT						EUR	- 1 405 265,00	0,00	- 1 405 265,00
SI	Clearance of accounts — Financial Clearance	2008	known error found in the completeness test of Annex II and III A	ONE-OFF		EUR	- 6 010,62	0,00	- 6 010,62
Total SI						EUR	- 6 010,62	0,00	- 6 010,62
6 7 1 1 Total						EUR	- 3 947 212,13	0,00	- 3 947 212,13

BUDGET ITEM: 05 07 01 07

MS	Measure	Financial year	Reason	Type	%	Currency	Amount	Deductions	Financial impact
RO	Financial audit — Late payments and payment deadlines	2009	late payments	ONE-OFF		EUR	- 7 674 175,73	- 9 399 922,54	1 725 746,81
Total RO						EUR	- 7 674 175,73	- 9 399 922,54	1 725 746,81
05 07 01 07 Total						EUR	- 7 674 175,73	- 9 399 922,54	1 725 746,81