COMMISSION DECISION

of 3 October 2006

on the financial treatment to be applied, in the context of clearance of expenditure financed by the European Agricultural Guidance and Guarantee Section, in certain cases of irregularity by operators

(notified under document number C(2006) 4324)

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

(2006/678/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 8(2) thereof,

After consulting the Fund Committee,

Whereas:

(1) Article 8(1)(c) of Regulation (EEC) No 729/70 provides for the Member States to take the measures necessary to recover sums lost as a result of irregularities or negligence. Pursuant to Article 8(2) of Regulation (EEC) No 729/70, in the absence of total recovery, the financial consequences of irregularities or negligence are to be borne by the Community, with the exception of the consequences of irregularities or negligence attributable to administrative authorities or other bodies of the Member States.

(2) In its judgments in Cases C-34/89, Italy v Commission [2], C-54/95, Germany v Commission [3] and C-277/98 France v Commission [4], the Court of Justice has held that the Member States must take steps to rectify irregularities promptly. It follows in particular from the judgment in Case C-34/89 that a Member State cannot be inactive for a period of four years from the moment of the first indication of an irregularity [5]. Within that period the investigation should generally be conducted and a decision be taken on the initiation of recovery procedure. In Case C-54/95 the Court indicated that, in principle, the Member States have to start the recovery procedure within one year after the all relevant facts are known with regard to the irregularity.

(3) To date, the Commission has evaluated the recovery proceedings carried out by the Member States as regards irregularities communicated under Council Regulation (EEC) No 595/91 of 4 March 1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Regulation (EEC) No 283/72 [6] before 1 January 1999 and involving amounts of more than EUR 500 000 in order to decide on the financial consequences of those irregularities in accordance with Article 8(2) of Regulation (EEC) No 729/70. In so doing, the Commission has followed the procedure set out in Article 5 of that Regulation and in Article 8 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 [7].

(4) The verifications and the bilateral discussions with the Member States have shown that in certain cases the Member States did not act with the necessary promptness and diligence. Therefore, the financial consequences of non-recovery should in such cases not be borne by the Community budget.

(5) In all other cases the financial consequences of the irregularities examined should be borne by the Community budget.

(6) Cases notified under Regulation (EEC) No 595/91 in which undue payments have been recovered in full or for which it has been found that no undue payment was made should be removed from the list of notifications provided for in Articles 3 and 5 of that Regulation.

(7) The Commission has informed the Member States in a summary report of the amounts to be excluded from the Community financing and of the grounds on which such exclusion should be decided,

[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] Judgment of 11.10.1990, ECR 1990, p. I-3603.
[3] Judgment of 21.1.1999, ECR 1999, p. I-35.
[4] Judgment of 13.11.2001, ECR 2001, p. I-8453.
[5] Points 12 and 13.
[6] OJ L 67, 14.3.1991, p. 11.
[7] 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 cases listed in Annex I are hereby cleared and the corresponding amounts charged to the Member State concerned.

Article 2

The cases listed in Annex II are hereby cleared and the corresponding amounts charged to the Community budget.

Article 3

The cases listed in Annex III are removed from the list of notifications provided for in Articles 3 and 5 of Regulation (EEC) No 595/91.

Article 4

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

Done at Brussels, 3 October 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Amounts to be charged to the Member States

(budget item 6 7 0 1)

Germany	
Case	Amount in EUR
DE/1998/247	686 190,80

Spain	
Case	Amount in EUR
ES/1996/092	1 489 982,69
ES/1996/123	963 758,23
Total	2 453 740,92

France	
Case	Amount in EUR
FR/1998/020	789 514
FR/1998/117	551 743
Total	1 341 257

United Kingdom	
Case	Amount in GBP
UK/1998/202/M	360 758
UK/1998/202/P	749 039
UK/1998/202/T	274 045
Total	1 383 842

Italy	
Case	Amount in EUR
IT/1982/009	1 408 128,65
IT/1982/012	1 366 417,81
IT/1982/013	629 935,56
IT/1982/017	910 013,88
IT/1984/004	41 316,55
IT/1985/001	1 910 890,53
IT/1985/013	601 357,97
IT/1985/028	700 525,75
IT/1985/034	519 830,66

Italy	
Case	Amount in EUR
IT/1985/037	1 719 677,84
IT/1986/017	1 249 635,88
IT/1986/035	436 082,41
IT/1986/046	1 051 645,09
IT/1986/048	2 346 406,28
IT/1987/009	942 061,74
IT/1987/106	2 964 559,78
IT/1987/118	952 185,05
IT/1987/119	886 233,53
IT/1987/129	3 134 051,95
IT/1987/130	3 019 712,80
IT/1988/029	3 092 803,26
IT/1988/059	2 707 017,35
IT/1988/067	13 944 336,28
IT/1988/069	16 860 045,01
IT/1988/123	1 139 567,43
IT/1989/003(A)	3 166 518,37
IT/1989/010	4 451 687,38
IT/1989/011	880 239,40
IT/1989/012	954 560,47
IT/1989/013	1 756 811,95
IT/1989/017	1 151 573,35
IT/1989/049	607 978,47
IT/1989/052	801 021,02
IT/1989/055	729 996,93
IT/1989/062	533 048,34
IT/1989/076	7 190 795,74
IT/1989/078	3 702 297,02
IT/1989/087	2 763 062,49
IT/1989/094	873 448,66
IT/1989/097	883 185,79
IT/1989/109	882 625,37

Italy	
Case	Amount in EUR
IT/1989/120	505 074,81
IT/1989/130	952 185,05
IT/1989/141	2 353 482,58
IT/1989/184	585 745,67
IT/1989/185	3 153 808,48
IT/1989/187	1 182 320,05
IT/1989/188	5 015 307,87
IT/1989/208	1 528 863,48
IT/1990/001	1 893 038,98
IT/1990/002	648 746,26
IT/1990/004	889 279,64
IT/1990/021	560 702,00
IT/1990/053	531 953,50
IT/1990/059	8 384 948,04
IT/1990/064	2 139 322,74
IT/1990/066	667 339,28
IT/1990/077	13 964 478,09
IT/1990/079	652 412,16
IT/1990/080	997 851,72
IT/1990/081	2 950 584,42
IT/1990/083	1 226 694,20
IT/1990/084	695 687,06
IT/1990/086	1 037 481,54
IT/1990/092	0,00
IT/1990/094	3 064 059,49
IT/1991/002(A)	2 421 612,13
IT/1991/004	3 004 248,14
IT/1991/006	1 799 675,37
IT/1991/008	3 052 599,57
IT/1991/009	1 208 081,21
IT/1991/014	1 593 129,84
IT/1991/017	790 899,43
IT/1991/024	329 539,37
IT/1991/056	1 078 101,49
IT/1991/071	688 707,00
IT/1991/075	1 021 325,69

Italy	
Case	Amount in EUR
IT/1992/006	87 000,11
IT/1992/011	619 240,02
IT/1992/012	371 440,00
IT/1992/060	2 187 059,94
IT/1992/061	417 761,97
IT/1992/071	535 447,07
IT/1992/098	1 428 011,50
IT/1992/117	895 504,86
IT/1992/118	1 363 978,00
IT/1992/230	1 456 448,72
IT/1992/232	2 422 558,12
IT/1992/237	3 814 620,91
IT/1992/239	4 420 095,25
IT/1992/245	1 715 396,91
IT/1992/249	1 022 645,34
IT/1992/253	1 878 926,73
IT/1992/254	844 269,29
IT/1992/256	1 031 347,46
IT/1992/257	950 810,66
IT/1992/258	609 296,43
IT/1992/264	558 279,79
IT/1992/272	107 354,19
IT/1992/275	431 051,94
IT/1992/284	5 284 145,77
IT/1992/285	82 039,00
IT/1992/338	342 141,68
IT/1994/047	744 987,49
IT/1994/063	11 726 016,74
IT/1994/092	1 202 986,10
IT/1994/095	1 776 176,16
IT/1994/151	654 664,50
IT/1994/224	866 412,91
IT/1994/235	824 501,93
IT/1994/245	1 540 155,94
IT/1994/246	519 777,15
IT/1994/250	187 310,38

Italy	
Case	Amount in EUR
IT/1994/419	8 760 422,48
IT/1994/439	757 184,91
IT/1994/445	2 540 892,25
IT/1995/031	1 043 415,42
IT/1995/053	5 230 746,31
IT/1995/054	3 235 621,62
IT/1995/060	1 725 150,04
IT/1995/099	1 197 629,77
IT/1995/103	2 595 717,93
IT/1995/117	808 330,66
IT/1995/120	647 980,61
IT/1995/160	941 259,59
IT/1995/259	1 252 608,76
IT/1995/277	951 752,36
IT/1995/342	570 807,35
IT/1995/350	849 611,86
IT/1995/363	623 105,53
IT/1995/390	1 040 032,33
IT/1995/391	538 652,15
IT/1996/004	871 048,24
IT/1996/006	3 450 089,59
IT/1996/009	5 708 680,07
IT/1996/019	70 153,80

Italy	
Case	Amount in EUR
IT/1996/022	3 645 678,08
IT/1996/025	513 677,10
IT/1996/067	2 852 184,42
IT/1996/189	691 863,13
IT/1996/205	5 615 994,15
IT/1996/207	650 060,45
IT/1996/210	1 078 676,85
IT/1996/254	71 572,77
IT/1996/271	6 856 477,88
IT/1996/282	666 899,01
IT/1996/301	3 524 942,01
IT/1996/302	2 247 646,99
IT/1996/388	1 425 735,47
IT/1997/074	583 123,58
IT/1997/123	729 996,93
IT/1997/193	5 513 248,86
IT/1998/037	2 286 015,73
IT/1998/059	1 175 865,75
IT/1998/070	881 768,99
IT/1998/103	503 889,09
IT/1998/114	570 848,01
Total	310 849 495,98

ANNEX II

Amounts to be charged to the EAGGF Guarantee Fund

Germany	
Case number	Amount in EUR
DE/1995/174	3 644 689,38
DE/1996/210	102 911,19
Total	3 747 600,57

Spain	
Case number	Amount in EUR
ES/1995/069	145 393,60
ES/1996/073	71 481,48
ES/1996/085	1 617 401,34
ES/1997/255	2 275 730,27
ES/1998/056	509 809,96
Total	4 619 816,55

Netherlands	
Case number	Amount in EUR
NL/1997/066	532 080
NL/1998/038	1 922 727
Total	2 454 807

Portugal	
Case number	Amount in EUR
PT/1996/014	1 654 408,37
PT/1998/015	608 155,28
PT/1998/038	1 417 853,86
Total	3 680 417,51

Italy	
Case number	Amount in EUR
IT/1981/014	598 645,14
IT/1982/011	858 791,39

Italy	
Case number	Amount in EUR
IT/1988/008	6 951 704,49
IT/1988/013	1 628 505,84
IT/1988/023	4 121 803,13
IT/1988/068	1 792 260,77
IT/1988/078	124 280,67
IT/1989/001	4 926 732,53
IT/1989/016	538 117,76
IT/1990/028	202 927,48
IT/1990/037	2 174 169,20
IT/1991/002(S)	2 451 649,46
IT/1993/004	500 852,00
IT/1994/004	617 469,18
IT/1994/005	29 851 834,89
IT/1994/008	41 760 653,21
IT/1994/253	10 089 425,06
IT/1994/449	1 500 425,25
IT/1995/057	2 144 502,97
IT/1995/384	1 283 089,70
IT/1995/387	1 698 575,15
IT/1996/007	10 949 621,58
IT/1996/015	1 040 113,00
IT/1996/020	491 865,00
IT/1996/211	6 322 642,50
IT/1996/303	25 206 583,61
IT/1997/022	950 412,40
IT/1997/159	516 228,65
IT/1998/014	531 544,83
Total	161 825 426,84

ANNEX III

Irregularity cases to be removed from the list under Regulation (EEC) No 595/91

Germany
Case number
DE/1996/016
DE/1996/144
DE/1996/260
DE/1997/015
DE/1997/095
DE/1997/136
DE/1998/040
DE/1998/195
DE/1998/214

Spain
Case number
ES/1995/066
ES/1995/071
ES/1996/089
ES/1997/002
ES/1997/040
ES/1997/041
ES/1997/062

France
Case number
FR/1996/031
FR/1996/056
FR/1998/010
FR/1998/024

Netherlands
Case number
NL/1995/127
NL/1997/059
NL/1998/078

Portugal
Case number
PT/1995/036

United Kingdom
Case number
UK/1998/271

Italy
Case number
IT/1986/019(D)
IT/1986/040
IT/1986/043
IT/1987/020
IT/1987/091
IT/1987/092
IT/1988/024
IT/1988/053(D)
IT/1988/070
IT/1989/075
IT/1989/106
IT/1989/136
IT/1989/140
IT/1989/183
IT/1990/016
IT/1990/018
IT/1990/019
IT/1990/024
IT/1990/025
IT/1990/040
IT/1990/048
IT/1990/052
IT/1990/065
IT/1990/071
IT/1990/075
IT/1991/003(A)
IT/1991/011
IT/1991/012
IT/1991/053
IT/1991/055
IT/1991/060
IT/1991/063
IT/1992/005
IT/1992/021
IT/1992/022
IT/1992/023
IT/1992/024
IT/1992/025
IT/1992/026
IT/1992/048
IT/1992/065
IT/1992/066
IT/1992/067
IT/1992/084
IT/1992/097
IT/1992/102
IT/1992/103
IT/1992/234
IT/1992/263
IT/1992/274
IT/1992/276
IT/1992/300
IT/1992/322
IT/1992/323
IT/1992/325
IT/1992/339
IT/1992/343
IT/1992/345
IT/1992/346
IT/1993/008
IT/1994/006
IT/1994/007
IT/1994/068(D)
IT/1994/142
IT/1994/217
IT/1994/219
IT/1994/233
IT/1994/392
IT/1994/430
IT/1994/431
IT/1994/433
IT/1994/450
IT/1995/004
IT/1995/020
IT/1995/023
IT/1995/034
IT/1995/035
IT/1995/036
IT/1995/037
IT/1995/038
IT/1995/118
IT/1995/158
IT/1995/293
IT/1995/296
IT/1995/329
IT/1995/336
IT/1995/356

IT/1995/365	IT/1996/304	IT/1998/026
IT/1995/385	IT/1996/387	IT/1998/027
IT/1995/386	IT/1997/004	IT/1998/032
IT/1996/002	IT/1997/008	IT/1998/036
IT/1996/008(A)	IT/1997/158	IT/1998/045
IT/1996/008(S)	IT/1997/167	IT/1998/056
IT/1996/014	IT/1997/192	IT/1998/062
IT/1996/015(D)	IT/1998/006	IT/1998/068
IT/1996/277	IT/1998/020	IT/1998/071
IT/1996/289	IT/1998/021	IT/1998/426
IT/1996/292	IT/1998/025	IT/2000/059