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COMMISSION DECISION

of 15 July 2010

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(2010) 4894)

(only the Danish, English, Finnish, French, German, Hungarian, Slovak, Slovenian, Spanish and Swedish texts are authentic)

(2010/399/EU)

(OJ L 184, 17.7.2010, p. 6)

Corrected by:

►C1 Corrigendum, OJ L 202, 4.8.2010, p. 16 (2010/399/EU)

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COMMISSION DECISION

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(2010/399/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 twenty-four months before the Commission's written notification of the results of the verifications to the Member States.

[1] OJ L 160, 26.6.1999, p. 103.
[2] OJ L 209, 11.8.2005, p. 1.

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(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 30 April 2010 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 Kingdom of Spain, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Austria, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, and the United Kingdom of Great Britain and Northern Ireland.

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ANNEX

BUDGET ITEM 6 7 0 1

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
AT	Meat Premiums — Bovines	2006	weakness in the on-the-spot control system/ inaccurate calculation of sanctions	flat rate	2 %	EUR	– 1 679,96	– 0,00	– 1 679,96
AT	Meat Premiums — Bovines	2006	weakness in the on-the-spot control system/ inaccurate calculation of sanctions	one-off	0 %	EUR	– 9 517,64	0,00	– 9 517,64
AT	Meat Premiums — Bovines	2007	weakness in the on-the-spot control system/ inaccurate calculation of sanctions	flat rate	2 %	EUR	– 1 573,73	0,00	– 1 573,73
AT	Meat Premiums — Bovines	2007	weakness in the on-the-spot control system/ inaccurate calculation of sanctions	one-off	0 %	EUR	– 12 065,28	0,00	– 12 065,28
AT	Meat Premiums — Bovines	2008	weakness in the on-the-spot control system/ inaccurate calculation of sanctions	flat rate	2 %	EUR	– 1 364,34	0,00	– 1 364,34
AT	Meat Premiums — Bovines	2008	weakness in the on-the-spot control system/ inaccurate calculation of sanctions	one-off	0 %	EUR	– 12 346,20	0,00	– 12 346,20
AT	RD Guarantee Accompanying Measures (area related measures)	2006	weaknesses in the on-the-spot control procedure	flat rate	5 %	EUR	– 958 551,00	0,00	– 958 551,00
AT	RD Guarantee Accompanying Measures (area related measures)	2006	weaknesses in the on-the-spot control procedure	one-off	0 %	EUR	– 90 193,00	0,00	– 90 193,00
AT	Financial audit — Overshooting	2006	overshooting of financial ceilings	one-off	0 %	EUR	– 720 696,92	– 720 696,92	0,00
						Total AT	**– 1 807 988,07**	**– 720 696,92**	**– 1 087 291,15**
DE	Cross Compliance	2006	weaknesses in the controls and no/incorrect application of sanctions	flat rate	2 %	EUR	– 340 646,38	0,00	– 340 646,38
DE	Cross Compliance	2007	weaknesses in the controls and no/incorrect application of sanctions	flat rate	2 %	EUR	– 761 982,35	0,00	– 761 982,35

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
DE	Fruit and Vegetables — Operational Programmes	2005	weaknesses in the control system as regards operational programmes and recognition of producer organisations	one-off	0 %	EUR	– 1 843 395,60	0,00	– 1 843 395,60
DE	Fruit and Vegetables — Operational Programmes	2006	weaknesses in the control system as regards operational programmes and recognition of producer organisations	one-off	0 %	EUR	– 2 639 854,96	0,00	– 2 639 854,96
DE	Fruit and Vegetables — Operational Programmes	2007	weaknesses in the control system as regards operational programmes and recognition of producer organisations	one-off	0 %	EUR	– 2 395 925,77	0,00	– 2 395 925,77
DE	Area aids	2006	Weaknesses in on the spot checks	flat rate	2 %	EUR	– 545 241,63	0,00	– 545 241,63
DE	Area aids	2007	Weaknesses in on the spot checks	flat rate	2 %	EUR	– 825 953,23	0,00	– 825 953,23
DE	Area aids	2008	Weaknesses in on the spot checks	flat rate	2 %	EUR	– 1 738,04	0,00	– 1 738,04
						Total DE	**– 9 354 737,96**	**0,00**	**– 9 354 737,96**
DK	Financial audit — Over-shooting	2006	overshooting of financial ceilings	one-off	0 %	EUR	– 3 820 260,57	0,00	– 3 820 260,57
DK	Financial audit — Over-shooting	2006	overshooting of financial ceilings	one-off	0 %	EUR	– 1 171 734,39	– 1 171 734,39	0,00
						Total DK	**– 4 991 994,96**	**– 1 171 734,39**	**– 3 820 260,57**
ES	Meat Premiums — Bovines	2005	exclusion from on-the-spot checks of certain special beef premium	flat rate	10 %	EUR	– 971,74	0,00	– 971,74
ES	Meat Premiums — Bovines	2005	sanctions not applied for the slaughter premium	one-off	0 %	EUR	– 9 964,00	0,00	– 9 964,00
ES	Meat Premiums — Bovines	2006	exclusion from on-the-spot checks of certain special beef premium	flat rate	10 %	EUR	– 736,24	0,00	– 736,24
ES	Meat Premiums — Bovines	2006	sanctions not applied for the salughter premiums	one-off	0 %	EUR	– 17 601,00	0,00	– 17 601,00
ES	Meat Premiums — Bovines	2007	sanctions not applied for the slaughter premium	one-off	0 %	EUR	– 12 770,10	0,00	– 12 770,10
ES	Area aids	2006	Weaknesses in on the spot checks and incorrect calculation of sanctions	flat rate	2 %	EUR	– 2 726 605,00	0,00	– 2 726 605,00

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
ES	Area aids	2007	Weaknesses in on the spot checks and incorrect calculation of sanctions	flat rate	2 %	EUR	– 1 900 131,00	0,00	– 1 900 131,00
ES	Area aids	2007	Incorrect calculation of sanctions	one-off	0 %	EUR	– 392 090,14	0,00	– 392 090,14
ES	Area aids	2008	Incorrect calculation of sanctions	one-off	0 %	EUR	– 467 281,93	0,00	– 467 281,93
ES	RD Guarantee Accompanying Measures (area related measures)	2006	excess amounts of aid paid and incorrect calculation of sanctions	flat rate	2 %	EUR	– 251 015,00	0,00	– 251 015,00
ES	Area aids	2006	LPIS not updated with control findings	one-off	0 %	EUR	– 2 315,31	0,00	– 2 315,31
ES	Area aids	2006	LPIS not updated with control findings	one-off	0 %	EUR	– 9 850,00	0,00	– 9 850,00
ES	Area aids	2007	LPIS not updated with control findings	one-off	0 %	EUR	– 8 591,31	0,00	– 8 591,31
ES	Area aids	2007	LPIS not updated with control findings	one-off	0 %	EUR	– 14 045,00	0,00	– 14 045,00
ES	Area aids	2008	LPIS not updated with control findings	one-off	0 %	EUR	– 12 885,31	0,00	– 12 885,31
ES	Area aids	2008	LPIS not updated with control findings	one-off	0 %	EUR	– 14 045,00	0,00	– 14 045,00
ES	Rural Development Axis 2 (2000-2006, area related measures)	2006	LPIS not updated with control findings	one-off	0 %	EUR	– 11 968,41	0,00	– 11 968,41
ES	Olive Oil — Financement GIS	2005	ineligible expenditure	one-off	0 %	EUR	– 1 296 714,44	0,00	– 1 296 714,44
						Total ES	**– 7 149 580,93**	**0,00**	**– 7 149 580,93**
FI	Financial audit — Overshooting	2007	overshooting ceilings	one-off	0 %	EUR	– 1 671 589,80	0,00	– 1 671 589,80
						Total FI	**– 1 671 589,80**	**0,00**	**– 1 671 589,80**
GB	Area aids	2006	weaknesses in LPIS-GIS system, administrative procedures for controls and cross-checks, elaboration of risk anlysis, performance of on-the-spot checks and in calculation of sanctions.	flat rate	5 %	GBP	– 77 020 748,00	– 28 096 340,44	– 48 924 407,56

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
GB	Area aids	2007	weaknesses in LPIS-GIS system, administrative procedures for controls and cross-checks, elaboration of risk anlysis, performance of on-the-spot checks and in calculation of sanctions.	flat rate	2 %	EUR	– 48 275 334,89	0,00	– 48 275 334,89
GB	Area aids	2005	weakness in LPIS-GIS and on-the-spot controls	flat rate	2 %	GBP	– 689 685,19	0,00	– 689 685,19
GB	Rural Development EAGGF Axis 2 (2000-2006, area related measures)	2005	weakness in LPIS-GIS and on-the-spot controls	flat rate	5 %	GBP	– 569 887,01	0,00	– 569 887,01
GB	Area aids	2006	weakness in LPIS-GIS and on-the-spot controls	flat rate	5 %	GBP	– 11 009 183,28	0,00	– 11 009 183,28
GB	Area aids	2006	weakness in LPIS-GIS and on-the-spot controls	flat rate	5 %	GBP	– 112 386,01	0,00	– 112 386,01
GB	Area aids	2006	weakness in LPIS-GIS and on-the-spot controls	flat rate	2 %	GBP	– 9 697,79	0,00	– 9 697,79
GB	Rural Development EAGGF Axis 2 (2000-2006, area related measures)	2006	weakness in LPIS-GIS and on-the-spot controls	flat rate	5 %	GBP	– 732 267,13	0,00	– 732 267,13
GB	Area aids	2007	weaknesses in LPIS-GIS and on-the-spot controls	flat rate	5 %	EUR	– 18 600 258,71	0,00	– 18 600 258,71
GB	Area aids	2006	weaknesses in the control system. Inacurate calculation of sanctions.	one-off	0 %	EUR	– 45 966,93	0,00	– 45 966,93
GB	Area aids	2007	weaknesses in the control system. Inacurate calculation of sanctions.	one-off	0 %	EUR	– 236 631,98	0,00	– 236 631,98
GB	Area aids	2008	weaknesses in the control system. Inacurate calculation of sanctions.	one-off	0 %	EUR	– 231 771,95	0,00	– 231 771,95
GB	Direct Decoupled Aid (single payment scheme — SPS)	2006	redefinition process	one-off	0 %	GBP	– 73 654,20	0,00	– 73 654,20

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
GB	Direct Decoupled Aid (single payment scheme — SPS)	2006	incorrect formula for National Reserve investors	one-off	0 %	GBP	– 6 454 006,67	0,00	– 6 454 006,67
GB	Direct Decoupled Aid (single payment scheme — SPS)	2006	national reserve allocation under the category of investors	flat rate	10 %	GBP	– 5 808 606,00	– 2 904 303,00	– 2 904 303,00
GB	Direct Decoupled Aid (single payment scheme — SPS)	2006	new farmers	flat rate	10 %	GBP	– 1 023 521,91	– 511 760,96	– 511 760,95
GB	Direct Decoupled Aid (single payment scheme — SPS)	2007	redefinition process	one-off	0 %	EUR	– 49 868,01	0,00	– 49 868,01
GB	Direct Decoupled Aid (single payment scheme — SPS)	2007	Incorrect formula for National Reserve investors	one-off	0 %	EUR	– 8 768 128,77	0,00	– 8 768 128,77
GB	Direct Decoupled Aid (single payment scheme — SPS)	2007	flat rate correction for National Reserve allocation under category of investors	flat rate	10 %	EUR	– 7 891 315,89	– 1 578 263,18	– 6 313 052,71
GB	Direct Decoupled Aid (single payment scheme — SPS)	2007	flat rate correction for new farmers	flat rate	10 %	EUR	– 2 225 441,01	– 445 088,20	– 1 780 352,81
GB	Direct Decoupled Aid (single payment scheme — SPS)	2008	redefinition process	one-off	0 %	EUR	– 4 669,16	0,00	– 4 669,16
GB	Direct Decoupled Aid (single payment scheme — SPS)	2008	incorrect formula for National Reserve investors	one-off	0 %	EUR	– 7 190 363,64	0,00	– 7 190 363,64
GB	Direct Decoupled Aid (single payment scheme — SPS)	2008	flat rate correction for National Reserve allocation under category of investors	flat rate	10 %	EUR	– 6 471 327,27	0,00	– 6 471 327,27
GB	Direct Decoupled Aid (single payment scheme — SPS)	2008	flat rate correction for new farmers	flat rate	10 %	EUR	– 4 438 172,99	0,00	– 4 438 172,99

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
GB	Clearance of accounts	2006	errors in LMCS transactions	one-off	0 %	GBP	– 62 928,00	0,00	– 62 928,00
						Total GB (GBP)	**– 103 566 571,19**	**– 31 512 404,40**	**– 72 054 166,79**
						Total GB (EUR)	**– 104 429 251,20**	**– 2 023 351,38**	**– 102 405 899,82**
HU	Export refunds — Sugar and isoglucose	2006	insufficient sampling and analysis of sugar exported with refund	flat rate	2 %	HUF	– 31 662 787,54	0,00	– 31 662 787,54
HU	Export refunds — Sugar and isoglucose	2007	insufficient sampling and analysis of sugar exported with refund	flat rate	2 %	HUF	– 4 239 145,14	0,00	– 4 239 145,14
HU	Public Storage — Sugar	2005	incorrect exchange rate	one-off	0 %	HUF	– 3 342 018,00	0,00	– 3 342 018,00
HU	Public Storage — Cereals	2005	quantity adjustment for in-situ take-over in 2004/2005	one-off	0 %	EUR	– 335 107,00	0,00	– 335 107,00
HU	Public Storage — Sugar	2006	inclusion of VAT in value of purchases of sugar	one-off	0 %	HUF	– 2 955 303 504,00	0,00	– 2 955 303 504,00
HU	Financial audit — Over-shooting	2007	overshooting ceilings	one-off	0 %	EUR	– 1 553 836,42	– 1 652 789,71	– 98 953,29
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						Total HU (HUF)	**– 2 994 547 454,68**	**0,00**	**– 2 994 547 454,68**
						Total HU (EUR)	**– 1 888 943,42**	**– 1 652 789,71**	**– 236 153,71**
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LU	Direct Payments	2006	poor LPIS-GIS and weaknesses in on-the-spot controls	flat rate	2 %	EUR	– 645 946,68	0,00	– 645 946,68
LU	Direct Payments	2007	poor LPIS-GIS and weaknesses in on-the-spot controls	flat rate	2 %	EUR	– 2 488,50	0,00	– 2 488,50
LU	Direct Payments	2007	poor LPIS-GIS and weaknesses in on-the-spot controls	one-off	0 %	EUR	– 153 075,60	0,00	– 153 075,60
LU	Rural Development Axis 2 (2000-2006, area related measures)	2007	poor LPIS-GIS and weaknesses in on-the-spot controls	one-off	0 %	EUR	– 30 690,90	0,00	– 30 690,90

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
						Total LU	**– 832 201,68**	**0,00**	**– 832 201,68**
SK	Public Storage — Cereals	2005	deficiencies in anylysing the quality of cereals stored	one-off	0 %	EUR	– 45 853,00	0,00	– 45 853,00
						Total SK	**– 45 853,00**	**0,00**	**– 45 853,00**

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MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions	Financial impact
ES	RD Guarantee Accompanying Measures (area related measures)	2007	excess amounts of aid paid and incorrect calculation of sanctions	flat rate	2 %	EUR	– 1 973,00	0,00	– 1 973,00
ES	Rural Development EAFRD Axis 2 (2007-2013, area related measures)	2007	LPIS not updated with control findings	one-off	0 %	EUR	– 18 028,45	0,00	– 18 028,45
ES	Rural Development EAFRD Axis 2 (2007-2013, area related measures)	2008	LPIS not updated with control findings	one-off	0 %	EUR	– 49 464,87	0,00	– 49 464,87
						Total ES	**– 69 466,32**	**0,00**	**– 69 466,32**

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MS	Measure	FY	Reason	Type Correction	%	Currency	Amount	Deductions	Financial impact
SI	RD Guarantee Accompanying Measures (area related measures)	2005	late application of the verification and recovery procedures	one-off	0 %	EUR	– 1 354 253,00	0,00	– 1 354 253,00
SI	RD Guarantee Accompanying Measures (area related measures)	2006	late application of the verification and recovery procedures	one-off	0 %	EUR	– 926 607,00	0,00	– 926 607,00
						Total SI	**– 2 280 860,00**	**0,00**	**– 2 280 860,00**