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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)

Amended by:

| | | Official Journal | | |
|---|---|---|---|---|
| | | No | page | date |
| ►**M1** | Commission Implementing Decision 2011/837/EU of 12 December 2011 | L 332 | 11 | 15.12.2011 |

Corrected by:

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

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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)

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.

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

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(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.

(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 |

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| MS | Measure | FY | Reason | Type | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| 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 |
| 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 |

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| MS | Measure | FY | Reason | Type | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| 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 |
| 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** |

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| MS | Measure | FY | Reason | Type | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| 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 |
| 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 |

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| MS | Measure | FY | Reason | Type | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| 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 |
| 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 |

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| MS | Measure | FY | Reason | Type | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| 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 |
| 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 |
| | | | | | | **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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| MS | Measure | FY | Reason | Type | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| 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 |
| | | | | | | **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** |

**BUDGET ITEM 6 7 1 1**

| 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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**BUDGET ITEM 6 5 0 0**

| MS | Measure | FY | Reason | Type Correction | % | Currency | Amount | Deductions | Financial impact |
|---|---|---|---|---|---|---|---|---|---|
| SI | Rural Development - Transitional Instrument | 2005 | late application of the verification and recovery procedures | one-off | | EUR | – 1 354 253,00 | – 1 263 363,80 | – 90 889,20 |
| SI | Rural Development - Transitional Instrument | 2006 | late application of the verification and recovery procedures | one-off | | EUR | – 926 607,00 | – 906 968,08 | – 19 638,92 |
| | | | | | | **Total SI** | **– 2 280 860,00** | **– 2 170 331,88** | **– 110 528,12** |