DECISIONS

COMMISSION DECISION

of 2 February 2010

on the clearance of the accounts of certain paying agencies in Belgium, Germany, Malta, Portugal and Romania concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for the 2008 financial year

(notified under document C(2010) 465)

(Only the Dutch, French, German, Maltese, Portuguese and Romanian texts are authentic)

(2010/56/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [1], and in particular Articles 30 and 32(8) thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) Commission Decision 2009/367/EC [2] cleared, for the 2008 financial year, the accounts of all the paying agencies except for the Belgian paying agency 'ALV', The German paying agency 'Baden-Württemberg', the Greek paying agency 'OPEKEPE', the Italian paying agency 'ARBEA', the Maltese paying agency 'MRRA', the Portuguese paying agency 'IFAP' and the Romanian paying agency 'PIAA'.

(2) Following the transmission of new information and after additional checks, the Commission can now take a decision on the integrality, accuracy and veracity of the accounts submitted by the Belgian paying agency 'ALV', the German paying agency 'Baden-Württemberg', the Maltese paying agency 'MRRA', the Portuguese paying agency 'IFAP' and the Romanian paying agency 'PIAA'.

(3) The first subparagraph of Article 10(2) of Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD [3] lays down that the amounts that are recoverable from, or payable to, each Member State, in accordance with the accounts clearance decision referred to in the first subparagraph of Article 10(1) of the said Regulation, shall be determined by deducting advances paid during the financial year in question, i.e. 2008, from expenditure recognised for that year in accordance with paragraph 1. Such amounts are to be deducted from, or added to, the advances against expenditure from the second month following that in which the accounts clearance decision is taken.

(4) Pursuant to Article 32(5) of Regulation (EC) No 1290/2005, 50 % of the financial consequences of non-recovery of irregularities shall be borne by the Member State concerned and 50 % by the Community budget if the recovery of those irregularities has not taken place within four years of the primary administrative or judicial finding, or within eight years if the recovery is taken to the national courts. Article 32(3) of the said Regulation obliges Member States to submit to the Commission, together with the annual accounts, a summary report on the recovery procedures undertaken in response to irregularities. Detailed rules on the application of the Member States' reporting obligation of the amounts to be recovered are laid down in Regulation (EC) No 885/2006. Annex III to the said Regulation provides the model table that had to be provided in 2009 by the Member States. On the basis of the tables completed by the Member States, the Commission should decide on the financial consequences of non-recovery of irregularities older than four or eight years respectively. This Decision is without prejudice to future conformity decisions pursuant to Article 32(8) of Regulation (EC) No 1290/2005.

[1] OJ L 209, 11.8.2005, p. 1.
[2] OJ L 111, 5.5.2009, p. 44.
[3] OJ L 171, 23.6.2006, p. 90.

(5) Pursuant to Article 32(6) of Regulation (EC) No 1290/2005, Member States may decide not to pursue recovery. Such a decision may only be taken if the costs already and likely to be incurred total more than the amount to be recovered or if the recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity. If that decision has been taken within four years of the primary administrative or judicial finding or within eight years if the recovery is taken to the national courts, 100 % of the financial consequences of the non-recovery should be borne by the Community budget. In the summary report referred to in Article 32(3) of Regulation (EC) No 1290/2005 the amounts for which the Member State decided not to pursue recovery and the grounds for the decision are shown. These amounts are not charged to the Member States concerned and are consequently to be borne by the Community budget. This decision is without prejudice to future conformity decisions pursuant to Article 32(8) of the said Regulation.

(6) In clearing the accounts of the paying agencies concerned, the Commission must take account of the amounts already withheld from the Member States concerned on the basis of Decision 2009/367/EC.

(7) In accordance with Article 30(2) of Regulation (EC) No 1290/2005, this Decision does not prejudice decisions taken subsequently by the Commission excluding from Community financing expenditure not effected in accordance with Community rules,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the Belgian paying agency 'ALV', the German paying agency 'Baden-Württemberg', the Maltese paying agency 'MRRA', the Portuguese paying agency 'IFAP' and the Romanian paying agency 'PIAA' concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF), in respect of the 2008 financial year, are hereby cleared.

The amounts which are recoverable from, or payable to, each Member State concerned pursuant to this Decision, including those resulting from the application of Article 32(5) of Regulation (EC) No 1290/2005, are set out in Annex.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the Republic of Malta, the Portuguese Republic and Romania.

Done at Brussels, 2 February 2010.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

CLEARANCE OF THE PAYING AGENCIES' ACCOUNTS

FINANCIAL YEAR 2008

AMOUNT TO BE RECOVERED FROM OR PAID TO THE MEMBER STATE

MS		2008 — Expenditure/Assigned revenue for the paying agencies for which the accounts are		Total a + b	Reductions and suspensions for the whole financial year [1]	Reductions according to Article 32 of Regulation (EC) No 1290/2005	Total including reductions and suspensions	Payments made to the Member State for the financial year	Amount to be recovered from (–) or paid to (+) the Member State [2]
		cleared	disjoined						
		= expenditure/assigned revenue declared in the annual declaration	= total of the expenditure/assigned revenue in the monthly declarations						
		a	b	c = a + b	d	e	f = c + d + e	g	h = f – g
BE	EUR	706 129 444,37	0,00	706 129 444,37	– 593,30	– 61 021,93	706 067 829,14	706 201 150,75	– 133 321,61
DE	EUR	5 100 883 643,72	0,00	5 100 883 643,72	– 37 390,29	2 896 241,51	5 097 950 011,92	5 101 133 812,30	– 3 183 800,38
MT	EUR	2 470 040,90	0,00	2 470 040,90	– 177,28	0,00	2 469 863,62	2 472 341,64	– 2 478,02
PT	EUR	720 183 268,38	0,00	720 183 268,38	– 148 413,94	– 217 121,39	719 817 733,05	720 094 153,57	– 276 420,52
RO	EUR	462 680 727,14	0,00	462 680 727,14	– 8 629 639,25	0,00	454 051 087,89	461 870 850,36	– 7 819 762,47

MS		Amount recovered from (–) or paid to (+) the Member State under Decision 2009/367/EC	Amount to be recovered from (–) or paid to (+) the Member State [2]	Expenditure [3]	Assigned revenue [3]	Sugar Fund		Article 32 (=e)	Total (=h)
						Expenditure [4]	Assigned revenue [4]		
				05 07 01 06	67 01	05 02 16 02	68 03	67 02	
		i	j = h – i	i	j	k	l	m	n = i + j + k + l + m
BE	EUR	– 129 316,43	– 4 005,18	2 506,07	0,00	0,00	0,00	– 6 511,25	– 4 005,18
DE	EUR	– 3 158 445,95	– 25 354,43	– 3 644,61	– 4,69	0,00	0,00	– 21 705,13	– 25 354,43
MT	EUR	0,00	– 2 478,02	0,00	– 2 478,02	0,00	0,00	0,00	– 2 478,02
PT	EUR	0,00	– 276 420,52	– 59 299,13	0,00	0,00	0,00	– 217 121,39	– 276 420,52
RO	EUR	0,00	– 7 819 762,47	– 7 819 762,47	0,00	0,00	0,00	0,00	– 7 819 762,47

(1) The reductions and suspensions are those taken into account in the payment system, to which are added in particular the corrections for the non-respect of payment deadlines established in August, September and October 2008.
(2) For the calculation of the amount to be recovered from or paid to the Member State the amount taken into account is, the total of the annual declaration for the expenditure cleared (column a), or the total of the monthly declarations for the expenditure disjoined (column b). Applicable exchange rate: Article 7(2) of Regulation (EC) No 883/2006.
(3) If the Assigned revenue part would be in advantage of Member State, it has to be declared under 05 07 01 06.
(4) If the Assigned revenue part of the Sugar Fund, would be in the advantage of the Member State, it has to be declared under 05 02 16 02.
NB: Nomenclature 2010: 05 07 01 06, 05 02 16 02, 67 01, 67 02, 68 03.