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COMMISSION REGULATION (EC) No 349/2005

of 28 February 2005

laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC

(OJ L 55, 1.3.2005, p. 12)

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laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 3(4) thereof,

Whereas:

(1) Articles 3, 4, 6 and 11 of Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field [2] provide for Member States to benefit, subject to compliance with certain rules, from a Community financial contribution for the eradication of diseases, in the situations described in those Articles.

(2) In accordance with Article 6(3) and Article 11(5) of Decision 90/424/EEC, decisions relating to such financial contributions must set out the eligible costs, and Articles 4 and 11 refer to the provisions, particularly the procedural provisions, of Article 3.

(3) By virtue of Article 40a of Decision 90/424/EEC, expenditure subject to funding under the terms of that Decision is managed directly by the Commission, in accordance with Article 148 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [3].

(4) However, Regulation (EC) No 1258/1999 does not include any rules on the management of such appropriations. Furthermore, Decision 90/424/EEC lays down eligibility conditions for Community financial contributions. Those conditions need to be clarified.

(5) With a view to achieving simplification and transparency in the financial management of these appropriations, ensuring equal treatment for Member States and avoiding the risk of overvaluing animals or products eligible for compensation, it would appear appropriate to provide detailed clarifications and to lay down rules applicable to requests for reimbursement submitted by Member States, especially with regard to the period within which payment should be made to the owner of the animals or products, and the amounts eligible for Community financial support.

(6) In order to ensure sound financial management, rapid information on disease management is needed, and in particular regular estimates of the expenditure incurred by Member States.

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[1] OJ L 160, 26.6.1999, p. 103.
[2] OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).
[3] OJ L 248, 16.9.2002, p. 1.

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(7) Under Article 3(2) of Regulation (EC) No 1258/1999, veterinary and plant health measures undertaken in accordance with Community rules must be financed by the Guarantee section of the European Agricultural Guidance and Guarantee Fund. Articles 8 and 9 of that Regulation apply for the purposes of financial control.

(8) In view of the special characteristics of equidae breeding and their consequences for the management of equidae diseases, it is necessary to exclude equidae from the scope of this Regulation, without prejudice to the provisions of Decision 90/424/EEC.

(9) It is necessary to specify the rate to be applied when converting requests for reimbursement submitted in national currencies within the meaning of Article 1(d) of Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ([1]).

(10) The rules for the conduct of financial audits need to be specified.

(11) The Commission should have the possibility of adjusting the deadlines and reduction rates for eligible expenditure contained in this Regulation, where well-founded justifications are put forward by Member States, especially in connection with the adaptation of administrative provisions.

(12) The measures provided for in this Decision are in accordance with the opinion of the Committee of the European Agricultural Guidance and Guarantee Fund,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

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1. This Regulation applies to Community financial contributions granted to Member States in respect of eligible expenditure as defined in Articles 3, 4 and 5, for disease eradication measures in the situations referred to in:

(a) Article 3(1) and Article 3a(1) of Decision 90/424/EEC, with the exception of equidae diseases; and

(b) Article 4(1) and (2), Article 6(2) and Article 11(1) of that Decision.

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2. Without prejudice to the adoption of additional eligibility criteria which may be laid down by decisions under Articles 3(4), 6(2) and (3) and 11(4) of Decision 90/424/EEC (hereinafter referred to as ‘specific decisions’), application of this Regulation may be extended, through such decisions, to the financing of measures other than those referred to in paragraph 1 of this Article, and in particular:

(a) to compensation for losses referred to in point (a)(v) of Article 11(4) of Decision 90/424/EEC in the event of vaccination; and

([1]) OJ L 349, 24.12.1998, p. 1.

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(b) to operational expenditure associated with the measures referred to in Articles 3(2a) and 6(2) of Decision 90/424/EEC.

3. This Regulation shall not prejudice the principle that the eligibility of expenditure, incurred and covered by Member States, for a Community financial contribution is subject to compliance with Community rules.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) 'swift and adequate compensation': payment, within 90 days of the slaughter of the animals, of compensation corresponding to the market value of the animals;

(b) 'market value': the price which the owner would normally have been able to obtain for the animal immediately before it became infected or was slaughtered, taking account of its fitness, quality and age;

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(c) 'reasonable expenditure': costs incurred in purchasing equipment or services at prices that are not disproportionate to the market value before diagnosis of the disease;

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(d) 'necessary expenditure': costs incurred in purchasing equipment or services referred to in the first, second and third indents of Article 3(2) of Decision 90/424/EEC, in the second indent of Article 3a(3) of that Decision, and in points (a)(i) to (iv) and point (b) of Article 11(4) thereof, where their nature and direct link with eligible expenditure as defined in Article 3 of this Regulation have been shown;

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(e) 'compulsory slaughter': compulsory slaughter in declared areas and preventive slaughter if explicitly ordered and carried out owing to a specific health risk (as a result of contact, adjacent location, suspicion or suppressive vaccination).

The definitions in points (a) to (d) shall also apply in the event of compulsory destruction of eggs.

Article 3

Expenditure eligible for Community financial support

Member States shall benefit from Community financial support in respect of the following:

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(a) swift and adequate compensation to owners forced to slaughter their animals or, where applicable, destroy eggs, in accordance with the first and seventh indents of Article 3(2), the first indent of Article 3a(3), and point (a)(i) of Article 11(4) of Decision 90/424/EEC;

(b) operational expenditure paid out in connection with the compulsory slaughter and destruction of animals and contaminated products, cleaning and disinfecting of buildings, and cleaning and

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disinfecting or, where necessary, destruction of contaminated equipment, in accordance with the first, second and third indents of Article 3(2), the second indent of Article 3a(3), and points (a)(i) to (iv) and (b) of Article 11(4) of Decision 90/424/EEC;

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(c) expenditure paid out in connection with other measures capable of adoption in the context of, and in accordance with, the conditions laid down in specific decisions relating to the Community financial contribution to such measures, and in particular expenditure on any vaccination measures.

Article 4

Calculation of the maximum eligible compensation per animal

1. The unit value per animal or product taken into account in calculating Community financial support shall be restricted to an average unit value calculated on the basis of the total amount of compensation for the animals or products concerned, divided by the number of corresponding animals or products. The amount shall not exceed:

(a) EUR 900 per bovine animal slaughtered;

(b) EUR 125 per pig slaughtered;

(c) EUR 100 per sheep or goat slaughtered;

(d) EUR 2,20 per laying hen slaughtered; EUR 1,20 per broiler hen slaughtered,

(e) EUR 0,20 per hatching egg destroyed; EUR 0,04 per table egg destroyed.

Where the average unit value calculated exceeds the maximum amounts stipulated in the first subparagraph, and where it is justified to do so on the basis of the market values communicated by Member States pursuant to Article 6(1) and the observations made in connection with the audits referred to in Article 10, the Commission shall take the calculated value as the basis for calculating the Community contribution.

2. The maximum amounts laid down in paragraph 1 shall be updated and supplemented by the Commission in respect of all or some of the animal categories or products, in order to take account of market trends and the inflation rate.

Article 5

Calculation of Community support for operational expenditure

1. Community financial support for the expenditure referred to in Article 3(b) and (c) shall cover only necessary and reasonable expenditure relating to the eligible items of expenditure set out in Annex I.

2. Calculation of the amount of Community financial support shall exclude expenditure presented by the Member State, and in particular:

(a) value added tax and other taxes;

(b) salaries of civil servants or public employees;

(c) expenditure arising from the use of public equipment, in particular means of transport, with the exception of consumables;

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(d) compensation for non-compulsory slaughter;

(e) compensation paid in addition to other Community support, such as slaughter premiums, in contravention of Community rules;

(f) compensation linked to the destruction or renovation of farm buildings, infrastructure costs and costs linked to financial losses or unemployment associated with the presence of the disease or a ban on restocking.

Article 6

Information required prior to the granting of Community financial support

1. If one of the situations referred to in Article 1(1) is identified in the territory of a Member State, the Member State shall inform the Commission, within 30 days of official confirmation of the first outbreak, of the categories of animals or products concerned and the market values for each of those categories.

2. No later than two months after official confirmation of the first outbreak, and every two months thereafter, the Member State shall forward an electronic file in the format shown in Annex IIa containing the following core information on the cost of compensation: number of slaughtered animals per category; where applicable the number of eggs destroyed; and the total amount of compensation already granted for each category.

3. No later than three months after official confirmation of the first outbreak, and every two months thereafter, the Member State shall forward an electronic file in the format shown in Annex IIb containing the following core information on operational expenditure: amounts paid for slaughtered animals, transport and destruction of carcasses, eggs and milk, cleaning, disinfecting and disinsectisation of the holding, destruction of feedingstuffs and, where applicable, destruction of equipment.

Article 7

Payment conditions and supporting documents

1. The Community financial support referred to in Article 3 shall be paid on the basis of the following:

(a) an official request for reimbursement, accompanied by a financial report in accordance with paragraph 2 of this Article;

(b) the supporting documents listed in Annex V, showing the costs of the various measures for which a Community contribution is requested;

(c) an epidemiological report on each holding where the animals have been slaughtered and destroyed;

(d) the results of the audits referred to in Article 10, where applicable.

The supporting documents referred to in point (b), together with all relevant information, including commercial information, shall be made available to the Commission, on request, for on-the-spot audits which it has to carry out.

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2. The ‘adequate compensation’ section of the financial report referred to in point (a) of paragraph 1 shall be submitted in the form of an electronic file in accordance with Annex III within 60 calendar days from the date of notification of the specific decision establishing financial support.

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The ‘operational expenditure’ section of the financial report referred to in point (a) of paragraph 1 shall be submitted in the form of an electronic file in accordance with Annex IV within 60 calendar days from the date of notification of the specific decision establishing financial support.

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The Commission may extend the deadlines set out in the first and second subparagraphs where objective and well-founded justifications are put forward by Member States.

3. Member States shall, in accordance with national laws, regulations and administrative provisions, take the measures necessary to:

(a) confirm the correctness and regularity of the operations financed for the purposes of disease eradication;

(b) prevent and pursue irregularities;

(c) recover sums lost as a result of irregularities or negligence;

(d) provide swift and adequate compensation for owners referred to in point (a) of Article 3;

(e) make advance arrangements for the use and public purchase of services and eligible equipment essential for crisis management, in particular for the slaughtering of animals, transport, destruction of carcasses, eggs and products, cleaning and disinfecting, in a manner which ensures the sound financial management of Member States’ own expenditure.

Member States shall inform the Commission, at its request, of the measures adopted for these purposes.

4. Official requests for reimbursement shall in any event cite the status of national administrative and legal procedures relating to operations financed, in particular the cases still pending, and shall state the financial amounts concerned and the reasons for such procedures.

Article 8

Conversion rates

The conversion rate to be applied to reimbursement requests submitted in national currency within the meaning of point (d) of Article 1 of Regulation (EC) No 2799/98, in month ‘n’, shall be as on the 10th day of month ‘n+1’, or the closest preceding day for which a rate is available.

Article 9

Reductions in eligible expenditure

1. If the authorities concerned fail to comply with the deadlines laid down in Article 6, eligible expenditure may be reduced by up to 5 %, account being taken of the quality of the information collected and the extent of the declared epizootic disease.

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2. Failure to meet the deadlines laid down in Article 7(2) shall result in a 25 % reduction in Community financial support per calendar month of delay.

3. Where the authorities concerned make compensation payments outside the period referred to in point (a) of Article 2, the following rules shall apply:

(a) 25 % reduction in eligible expenditure for payments made between 91 and 105 days after the slaughter of animals and/or destruction of eggs;

(b) 50 % reduction in eligible expenditure for payments made between 106 and 120 days after the slaughter of animals and/or destruction of eggs;

(c) 75 % reduction in eligible expenditure for payments made between 121 and 135 days after the slaughter of animals and/or destruction of eggs;

(d) 100 % reduction in eligible expenditure for payments made 135 days or more after the slaughter of animals and/or destruction of eggs.

However, the Commission may apply a different scale and/or lower, or zero, reduction rates where objective and well-founded justifications are put forward by Member States.

4. In the event of objections to the compensation on the part of recipients, the periods referred to in paragraph 3 shall be suspended in respect of the cases concerned.

Article 10

Audits

The Commission, acting in cooperation with the competent authorities, may carry out audits on the implementation of the measures referred to in Article 3 or Article 7(3) or the eligibility of associated expenditure and on-the-spot audits in the Member State.

Audits may entail, *inter alia*, checks on documentation and verification of the consistency of financial files as regards prices, numbers, ages and weights of animals, laying date of eggs, recent invoices, registers of holdings, and removal and transport orders.

Article 11

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

Eligible expenditure as referred to in Article 5(1)

1. Costs associated with the compulsory slaughter of animals:

   (a) salaries and remunerations of personnel specifically employed for the slaughtering operation;

   (b) consumables and specific equipment used for the slaughtering operation;

   (c) purchases of services or hire of means of transport to take animals to the slaughtering location.

2. Costs associated with the destruction of carcasses and/or eggs:

   (a) rendering: purchases of services or hire of means of transport to take carcasses and/or eggs to the rendering plant, processing of carcasses and/or eggs at the rendering plant, consumables and specific equipment used for the destruction of eggs, and destruction of meal;

   (b) burial: personnel specifically employed, purchases of services or hire of means of transport and equipment for burying carcasses and/or eggs, and products used to disinfect the holding;

   (c) incineration (where applicable on the spot): personnel specifically employed, fuel or other materials used, purchases of services or hire of means of transport for carcasses and/or eggs, and products used to disinfect the holding.

3. Costs associated with cleaning (*), disinfecting (*) and disinsectisation of holdings:

   (a) products used for cleaning, disinfecting and disinsectisation;

   (b) salaries and remunerations of personnel specifically employed.

4. Costs associated with the destruction of contaminated feedingstuffs (*) and/or milk (*):

   (a) reimbursement of purchase price of feedingstuffs and/or milk;

   (b) purchases of services or hire of means of transport and equipment for the destruction of feedingstuffs and/or milk.

5. Costs associated with the destruction of contaminated equipment, at market value (*).

6. In connection with vaccination, eligible expenditure may cover the salaries and fees of personnel specifically recruited, consumables and specific equipment used for vaccination and, where applicable, the purchase of the necessary vaccines for disease eradication by the Member State where the Community is not in a position to supply them.

(*) Not applicable in the case of bluetongue.

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ANNEX IIa

Information required prior to the granting of Community financial support

(name of disease) (year) (Member State): compensation

Type of animal or product	Number	Compensation (in national currency)

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ANNEX IIb

Information required prior to the granting of Community financial support

(name of disease) (year) (Member State): operational expenditure

Type of action	Amount (in national currency)
Slaughter	
Transport of:	
— carcasses	..... …
— eggs	..... …
— milk	..... …
Destruction of:	
— carcasses	..... …
— eggs	..... …
— milk	..... …
Destruction of feedingstuffs	
Destruction of equipment	
Cleaning	
Disinfecting/disinsectisation	
Total	

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ANNEX III

Request for contribution to compensation for the cost of animals compulsorily slaughtered and eggs compulsorily destroyed

Outbreak No	Contact with outbreak	Other	Holding identification number	Farmer		Holding location	Animal owner		Date of slaughter	Slaughter		Method of destruction		
				Surname	Forename		Surname	Forename		Farm	Slaughterhouse	Rendering plant	On-site incineration	Other (specify)

Outbreak	Contact with outbreak	Other	Holding identification number	Farmer		Holding location	Animal owner		Date of slaughter	Slaughter		Method of destruction		
				Surname	Forename		Surname	Forename		Farm	Slaughterhouse	Rendering plant	On-site incineration	Other (specify)

(*) Specify cow category: dairy and/or beef.

Outbreak	Contact with outbreak	Other	Holding identification number	Farmer		Holding location	Animal owner		Date of slaughter	Slaughter	
				Surname	Forename		Surname	Forename		Farm	Slaughterhouse

Outbreak	Contact with outbreak	Other	Holding identification number	Farmer		Holding location	Animal owner		Date of slaughter	Slaughter	
				Surname	Forename		Surname	Forename		Farm	Slaughterhouse

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Weight on date of destruction	Number of animals per category				Amount paid by category				Other costs paid directly to the farmer (excluding VAT)	Total compensation (excluding VAT)	Date of payment
	sows	boars	piglets	pigs	sows	boars	piglets	pigs			

Weight on date of destruction	Number of animals per category				Amount paid by category				Other costs paid directly to the farmer (excluding VAT)	Total compensation (excluding VAT)	Date of payment
	cows (*)	heifers	calves	bulls	cows	heifers	calves	bulls			

Method of destruction			Weight on date of destruction	Number of animals per category							Amount paid by category							Other costs paid directly to the farmer (excluding VAT)	Total compensation (excluding VAT)	Date of payment
Rendering plant	On-site incineration	Other (specify)		sheep			goats			others	sheep			goats			others			
				ewes	lambs	rams	goats	billygoats	kids		ewes	lambs	rams	goats	billygoats	kids				

Method of destruction			Weight on date of destruction	Number of animals per category							Amount paid by category							Other costs paid directly to the farmer (excluding VAT)	Total compensation (excluding VAT)	Date of payment
Rendering plant	On-site incineration	Other (specify)		hens			poultry			Others	hens			poultry			Others			
				laying hens	broiler hens	breeding hens	ducks	geese	turkeys		laying hens	broiler hens	breeding hens	ducks	geese	turkeys				

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Outbreak	Contact with outbreak	Other	Holding identification number	Farmer		Holding location	Animal owner		Date of slaughter	Slaughter	
				Surname	Forename		Surname	Forename		Farm	Slaughterhouse

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Method of destruction			Weight on date of destruction	Number of animals per category							Amount paid by category							Other costs paid directly to the farmer (excluding VAT)	Total compensation (excluding VAT)	Date of payment
Rendering plant	On-site incineration	Other (specify)		hens			poultry			others	hens			poultry			Others			
				laying hens	broiler hens	breeding hens	ducks	geese	turkeys		laying hens	broiler hens	breeding hens	ducks	geese	turkeys				

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ANNEX IV

Request for contribution to compensation for other costs

'Other costs' incurred, expressed in national currency, net of VAT (excluding compensation for the value of animals and/or eggs)

Holding No	Type of action					
	Slaughter	Destruction of carcasses (transport and processing)	Destruction of eggs (transport and processing)	Cleaning and disinfecting/disinsectisation (salaries and products)	Feedingstuffs and milk (compensation and destruction)	Equipment (compensation and destruction)
Total						

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ANNEX V

Supporting documents to be produced, on request, by the competent authority

The following are to be regarded as supporting documents within the meaning of Article 7(1)(d) in connection with audits:

I. DOCUMENTS LINKED TO COMPENSATION FOR FARMERS

1. proof of payment to the recipient (payment record),
2. evaluation records for animals and products for which compensation has been paid,
3. official slaughter orders,
4. animal transport documents (derogation, categories transported, certificate of completion),
5. details of the constitution of the herd (bovine animals) on the date of slaughter, according to the system for the identification and registration of bovine animals (computerised listing),
6. sampling operations and laboratory results,
7. epidemiological surveys,
8. records of veterinary inspections during the weeks prior to slaughter,
9. slaughterhouse weight forms for animals,
10. weight forms for carcasses to be destroyed,
11. official certificates of destruction of animals and products for which compensation has been paid, together with corresponding invoices from the destroyer,
12. original holding registers,
13. where applicable, listings of all dispatches to market or dispatches due to an animal welfare problem during the epidemic,
14. copies of the recipient's requests for premiums for the marketing year in progress at the date of slaughter,
15. movement authorisations issued for animals from the holding during the six months prior to slaughter,
16. milk production records,
17. animal pedigrees (where applicable),
18. copies of invoices for the acquisition and replacement of slaughtered animals and copies of purchase or sales invoices during the three months prior to slaughter.

II. DOCUMENTS LINKED TO THE COSTS REFEERED TO IN ANNEX I

Supporting documents linked to operations and purchases of goods and services referred to in Annex I.