

Commission Implementing Decision of 27 January 2012 on the clearance of the accounts of certain paying agencies in Germany and the Netherlands concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for the 2010 financial year (notified under document C(2012) 369) (Only the German and Dutch texts are authentic) (2012/52/EU)

COMMISSION IMPLEMENTING DECISION

of 27 January 2012

on the clearance of the accounts of certain paying agencies in Germany and the Netherlands concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for the 2010 financial year

(notified under document C(2012) 369)

(Only the German and Dutch texts are authentic)

(2012/52/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<sup>(1)</sup>, and in particular Articles 30 and 32(8) thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

- (1) Commission Implementing Decision 2011/272/EU<sup>(2)</sup> cleared, for the 2010 financial year, the accounts of all the paying agencies except for the German paying agency 'Rheinland-Pfalz', the Greek paying agency 'OPEKEPE', the Italian paying agency 'ARBEA', and the Dutch paying agency 'Dienst Regelingen'.
- (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 German paying agency 'Rheinland-Pfalz' and the Dutch paying agency 'Dienst Regelingen'.
- (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<sup>(3)</sup> 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 the monthly payments in respect of the financial year in question, i.e. 2010, from expenditure recognised for that year in accordance with paragraph 1. The Commission shall deduct that amount

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**Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision of 27 January 2012 on the clearance of the accounts of certain paying agencies in Germany and the Netherlands concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for the 2010 financial year (notified under document C(2012) 369) (Only the German and Dutch texts are authentic) (2012/52/EU), Introductory Text. (See end of Document for details)

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from or add it to the monthly payment relating to the expenditure effected in 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 EU 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 2011 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.
- (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 EU 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 EU 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 Implementing Decision 2011/272/EU.
- (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 EU financing expenditure not effected in accordance with EU rules,

HAS ADOPTED THIS DECISION:

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**Changes to legislation:** *There are currently no known outstanding effects for the Commission Implementing Decision of 27 January 2012 on the clearance of the accounts of certain paying agencies in Germany and the Netherlands concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for the 2010 financial year (notified under document C(2012) 369) (Only the German and Dutch texts are authentic) (2012/52/EU), Introductory Text. (See end of Document for details)*

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- (1) [OJ L 209, 11.8.2005, p. 1.](#)
- (2) [OJ L 119, 7.5.2011, p. 70.](#)
- (3) [OJ L 171, 23.6.2006, p. 90.](#)

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