Commission Implementing Decision (EU) 2019/265 of 12 February 2019 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2019) 869) (Only the Czech, Dutch, English, French, German, Greek, Italian, Portuguese, Romanian, Spanish and Swedish texts are authentic)

COMMISSION IMPLEMENTING DECISION (EU) 2019/265

of 12 February 2019

excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD)

(notified under document C(2019) 869)

(Only the Czech, Dutch, English, French, German, Greek, Italian, Portuguese, Romanian, Spanish and Swedish texts are authentic)

THE EUROPEAN COMMISSION,

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

Having regard to to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[1], and in particular Article 52 thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) In accordance with Article 52 of Regulation (EU) No 1306/2013 the Commission is to carry out the necessary verifications, communicate to the Member States the results of those 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) In accordance with Regulation (EU) No 1306/2013, only agricultural expenditure which has been incurred in a way that has not infringed Union law 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

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/265. (See end of Document for details)*

not fulfil this requirement and cannot, therefore, be financed under the EAGF and the EAFRD.

(5) The amounts that are not recognised as being chargeable to 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) The amounts excluded from Union financing by the present Decision should also take into account any reductions or suspensions in accordance with Article 41 of Regulation (EU) No 1306/2013 due to the fact that such reductions or suspensions are of a provisional nature and without prejudice to decisions taken pursuant to Articles 51 or 52 of that Regulation.

(7) As regards the cases covered by this decision, the assessment of the amounts to be excluded on grounds of non-compliance with Union law was notified by the Commission to the Member States in a summary report on the subject[(2)].

(8) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice of the European Union in cases pending on 15 November 2018,

HAS ADOPTED THIS DECISION:

Article 1

The amounts set out in the Annex and related to expenditure incurred by the Member States' accredited paying agencies and declared under the EAGF or the EAFRD shall be excluded from Union financing.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Czech Republic, the Federal Republic of Germany, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, Romania and the Kingdom of Sweden.

Done at Brussels, 12 February 2019.

For the Commission

Phil HOGAN

Member of the Commission

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/265. (See end of Document for details)*

ANNEX

Budget Item: *05070107*

Member State	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
CZ	Cross-compliance	2011	Reimbursement following judgment in case T-627/16	FLAT RATE	2,00 %	EUR	423 793,95	3,36	423 790,59
	Cross-compliance	2011	Reimbursement following judgment in case T-627/16	FLAT RATE	10,00 %	EUR	2 118 969,77	16,78	2 118 952,99
					Total CZ:	**EUR**	**2 542 763,72**	**20,14**	**2 542 743,58**
Member State	**Measure**	**FY**	**Reason**	**Type**	**Correction %**	**Currency**	**Amount**	**Deductions**	**Financial Impact**
SE	Decoupled Direct Aids	2014	Reimbursement following judgment in case T-260/16	FLAT RATE	2,00 %	EUR	8 811 286,44	0,00	8 811 286,44
					Total SE:	**EUR**	**8 811 286,44**	**0,00**	**8 811 286,44**

Currency	Amount	Deductions	Financial Impact
EUR	11 354 050,16	20,14	11 354 030,02

Budget Item: *6701*

Member State	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
AT	Decoupled Direct Aids	2016	Payment entitlements - Article 24(6) of R. 1307/2013	ONE OFF		EUR	– 2 762 784,0	0,00	– 2 762 784,0
	Decoupled Direct Aids	2017	Payment entitlements - Article 24(6)	ONE OFF		EUR	– 5 268 498,0	0,00	– 5 268 498,0

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/265. (See end of Document for details)*

			of R. 1307/2013						
	Decoupled Direct Aids	2016	Quality of LPIS - pro rata - 10 % threshold	ONE OFF		EUR	– 95 167,0	0,00	– 95 167,0
	Decoupled Direct Aids	2017	Quality of LPIS - pro rata - 10 % threshold	ONE OFF		EUR	– 95 167,0	0,00	– 95 167,0
	Decoupled Direct Aids	2017	Quality of LPIS - pro rata factors	ONE OFF		EUR	– 639 853,0	0,00	– 639 853,0
	Decoupled Direct Aids	2016	Quality of the LPIS - pro rata factors	ONE OFF		EUR	– 538 452,0	0,00	– 538 452,0
					Total AT:	**EUR**	**– 9 399 921,0**	**0,00**	**– 9 399 921,0**
Member State	**Measure**	**FY**	**Reason**	**Type**	**Correction %**	**Currency**	**Amount**	**Deductions**	**Financial Impact**
DE	Certification	2017	CEB/2018/020 - DE - errors in EAGF and EAFRD	ONE OFF		EUR	– 162,53	0,00	– 162,53
					Total DE:	**EUR**	**– 162,53**	**0,00**	**– 162,53**
Member State	**Measure**	**FY**	**Reason**	**Type**	**Correction %**	**Currency**	**Amount**	**Deductions**	**Financial Impact**
ES	Other Direct Aid - POSEI (2014+)	2015	Area paid for production of tomato not exported	ONE OFF		EUR	– 617 823,18	0,00	– 617 823,18
	Other Direct	2016	Area paid for	ONE OFF		EUR	– 433 756,91	0,00	– 433 756,91

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	Aid - POSEI (2014+)		production of tomato not exported						
	Other Direct Aid - POSEI (2014+)	2017	Area paid for production of tomato not exported	ONE OFF		EUR	– 424 985,8	0,00	– 424 985,8
	Certification	2016	Known errors - EAGF	ONE OFF		EUR	– 374 098,28	– 363 476,73	– 10 621,55
	Certification	2016	Known errors- EAGF Non IACS	ONE OFF		EUR	– 861 340,55	– 412 107,97	– 449 232,58
	Other Direct Aid - POSEI (2014+)	2015	non-compliance in determining the area for payment in the administrative checks: unauthorised tolerance of 1 % is used	ONE OFF		EUR	– 4 472,38	0,00	– 4 472,38
	Other Direct Aid - POSEI (2014+)	2016	non-compliance in determining the area for payment in the administrative checks: unauthorised tolerance of 1 % is used	ONE OFF		EUR	– 901,63	0,00	– 901,63
	POSEI (2014+)	2015	SSA-Regional	ONE OFF		EUR	– 12 501,12	0,00	– 12 501,12