

COMMISSION IMPLEMENTING DECISION

of 19 February 2013

as regards a Union financial aid towards a coordinated control plan with a view to establish the prevalence of fraudulent practices in the marketing of certain foods

(notified under document C(2013) 1035)

(2013/98/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules⁽¹⁾, and in particular Article 66 thereof,

Whereas:

- (1) Following controls being carried out since December 2012 in a number of Member States, the Commission was informed of fraudulent practices in certain foods. It was therefore necessary for the Commission to recommend to the Member States, by means of Commission Recommendation 2013/99/EU⁽²⁾, a coordinated control plan with a view to establish the prevalence of these fraudulent practices in the marketing of such foods. The coordinated control plan should be carried out for a period of one month starting from the date of the adoption of the Commission Recommendation, or at the latest by 1 March 2013.
- (2) In order to facilitate smooth and fast application of this plan, the Union should financially support the Member States which carry out this plan at the most appropriate level. Taking into account the exceptional character of the situation, the urgent need to reassure consumers, to prevent disruption of trade in the concerned market and ensure that Union exports are not affected, it is duly justified to fix the rate of eligible costs borne by the Union at 75 %.
- (3) Based on current information the cost for carrying out DNA tests on foods marketed and/or labelled as containing beef and for detecting phenylbutazone (PBZ) residues in horse meat are estimated at EUR 400 per test or detection.
- (4) With a Union co-financing rate of 75 %, the maximum Union contribution for carrying out DNA and PBZ tests would be EUR 300 per test.
- (5) In accordance with Article 84 of the Financial Regulation and Article 94 of the Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of

application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union⁽³⁾ (hereinafter referred to as 'the Rules of Application'), the commitment of expenditure from the Union budget shall be preceded by a financing decision setting out the essential elements of the action involving expenditure and adopted by the institution or the authorities to which powers have been delegated by the institution.

- (6) The measures eligible for Union financial support are defined within the current Commission Implementing Decision.
- (7) The financial contribution from the Union should be granted subject to the condition that the tests and analyses have been carried out and that the competent authorities supply all the necessary information within the time limits laid down in this Decision.
- (8) For reasons of administrative efficiency all expenditure submitted for a financial contribution by the Union should be expressed in euro. In accordance with Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽⁴⁾, the conversion rate for expenditure in a currency other than the euro should be the most recent exchange rate set by the European Central Bank prior to the first day of the month in which the application is submitted by the Member State concerned.
- (9) Under Regulation (EC) No 1290/2005, financial contribution to these kind of plans are to be financed under the European Agricultural Guarantee Fund. For financial control purposes, Articles 9, 36 and 37 of that Regulation shall apply.

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

The Union shall contribute to the costs incurred by the Member States for the application of the control plan referred to in the Recommendation 2013/99/EU (hereinafter 'Commission Recommendation'), with a total maximum amount of EUR 1 357 500 to be financed from budgetary line 17 04 07 01.

⁽¹⁾ OJ L 165, 30.4.2004, p. 1.⁽²⁾ See page 28 of this Official Journal.⁽³⁾ OJ L 362, 31.12.2012, p. 1.⁽⁴⁾ OJ L 209, 11.8.2005, p. 1.

*Article 2***Eligible costs**

1. The Union contribution referred to in the Commission Recommendation shall take the form of a partial reimbursement of 75 % of the costs of the tests performed by the competent authorities to implement the control plan referred to in Article 1 of Commission Recommendation.

The Union contribution cannot exceed:

- (a) EUR 300 per test;
 - (b) the amounts indicated in Annex I.
2. Only the costs indicated in Annex II shall be eligible to the contribution.

*Article 3***Eligibility rules**

1. The Union contribution referred to in Article 1 is subject to the following conditions:

- (a) the tests have been performed in accordance with the terms of the Commission Recommendation during the period referred to in Section II of the Annex thereto;
- (b) the Member States have provided the Commission with the report referred to in Section III of the Annex to Commission Recommendation and within the deadline set out in that section;
- (c) by 31 May 2013, the Member States have provided the Commission, in electronic form, with a financial report according to the format laid out in Annex III.

2. The Commission may reduce the amount of the contribution referred to in Article 1 in cases where the

conditions referred to in paragraph 1 are not met, having regard to the nature and gravity of the non-compliance and to the potential financial loss for the Union.

*Article 4***Currency and conversion rate**

1. The expenditure submitted by the Member States for a financial contribution by the Union shall be expressed in euro and shall exclude value added tax and all other taxes.

2. Where the expenditure of a Member State is in a currency other than the euro, the Member State concerned shall convert it into euro by applying the most recent exchange rate set by the European Central Bank prior to the first day of the month in which the application is submitted by the Member State.

Article 5

This Decision constitutes a financing decision in the meaning of Article 84 of the Financial Regulation.

Article 6

This Decision shall be applicable from the date of publication of the Commission Recommendation.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 19 February 2013.

For the Commission

Tonio BORG

Member of the Commission

ANNEX I

Maximum amount of the EU contribution referred to in Article 2(1)

(EUR)

Member State	Maximum EU contribution DNA test	Maximum EU contribution PBZ test	TOTAL EU contribution
Belgium	30 000	100 500	130 500
Bulgaria	30 000	46 500	76 500
Czech Republic	30 000	1 500	31 500
Denmark	15 000	1 500	16 500
Germany	45 000	15 000	60 000
Estonia	3 000	1 500	4 500
Ireland	15 000	10 500	25 500
Greece	30 000	15 000	45 000
Spain	45 000	34 500	79 500
France	45 000	78 000	123 000
Italy	45 000	183 000	228 000
Cyprus	3 000	1 500	4 500
Latvia	15 000	1 500	16 500
Lithuania	15 000	1 500	16 500
Luxembourg	3 000	1 500	4 500
Hungary	30 000	1 500	31 500
Malta	3 000	1 500	4 500
Netherlands	30 000	30 000	60 000
Austria	30 000	1 500	31 500
Poland	45 000	75 000	120 000
Portugal	30 000	1 500	31 500
Romania	30 000	51 000	81 000
Slovenia	3 000	1 500	4 500
Slovakia	15 000	1 500	16 500
Finland	15 000	1 500	16 500
Sweden	30 000	6 000	36 000
United Kingdom	45 000	16 500	61 500
TOTAL	675 000	682 500	1 357 500

ANNEX II

Eligible expenditure as referred to in Article 2(2)

The expenditure eligible for a financial contribution by the Union for carrying out the tests mentioned in this Implementing Decision shall be limited to the costs incurred by the Member States for:

- (a) the purchase of test kits, reagents and all consumables identifiable and especially used for carrying out the tests;
 - (b) personnel, whatever the status, specifically allocated entirely or in part for carrying out the tests in the premises of the laboratory; the costs are limited to actual salaries plus social security charges and other statutory costs included in the remuneration;
 - (c) costs for sending samples to the laboratory carrying out the analysis/tests; and
 - (d) overheads equal to 7 % of the sum of the costs referred to in (a), (b) and (c).
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ANNEX III

Financial report as referred to in Article 3(1)(c)

DNA			
Specify staff category	Hours	Cost/hour	Staff cost
(1)	(2)	(3)	$(4) = (2) \times (3)$
		Subtotal staff	(5)
Specify: kits/reagents/consumables	Quantity/number	Unit cost	Total cost
(6)	(7)	(8)	$(9) = (7) \times (8)$
		Subtotal kits reagents/consumables	(10)
Transport costs to laboratory			(11)
		TOTAL	$(12) = (5) + (10) + (11)$
TOTAL INCLUDING OVERHEADS			$= (12) \times 1,07$

PBZ			
Specify staff category	Hours	Cost/hour	Staff cost
(1)	(2)	(3)	$(4) = (2) \times (3)$
		Subtotal staff	(5)
Specify: reagents/consumables	Quantity/number	Unit cost	Total cost
(6)	(7)	(8)	$(9) = (7) \times (8)$
		Subtotal reagents/consumables	(10)
Transport costs to laboratory			(11)
		TOTAL	$(12) = (5) + (10) + (11)$
TOTAL INCLUDING OVERHEADS			$= (12) \times 1,07$