



Brussels, 14.5.2019  
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**COMMISSION DECISION**

**of 14.5.2019**

**laying down the guidelines for determining financial corrections to be made to  
expenditure financed by the Union for non-compliance with the applicable rules on  
public procurement**

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### **laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with the applicable rules on public procurement**

THE EUROPEAN COMMISSION,

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

Whereas:

- (1) The guidelines for determining financial corrections, as laid down in this Decision, should provide guidance to the relevant Commission services on the principles, criteria and scales that should be applied in respect of financial corrections made by the Commission concerning expenditure financed by the Union under shared management, for non-compliance with the applicable rules on public procurement, in particular Directives 2014/23/EU<sup>1</sup>, 2014/24/EU<sup>2</sup> and 2014/25/EU<sup>3</sup> of the European Parliament and of the Council, as specified in these guidelines.
- (2) In accordance with Article 144 of Regulation (EU) No 1303/2013 and Article 101(8) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>4</sup>, the Commission is required to make financial corrections on Member States in order to exclude from Union financing expenditure incurred in breach of applicable law, taking account of a proportionate use of administrative resources. The financial corrections have to be based on the identification of amounts unduly spent, and the financial implications for the budget. Where such amounts cannot be identified precisely, the Commission may apply extrapolated or flat-rate corrections in accordance with the sector-specific rules. Finally, when deciding on the amount of a financial correction, the Commission has to take account of the nature and gravity of the breach of applicable law and the financial implications for the budget, including the case of deficiencies in management and control systems.
- (3) These guidelines should cover all shared management Funds.
- (4) These guidelines reflect the experience drawn from the application of the previous guidelines on financial corrections for non-compliance with public procurement rules

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<sup>1</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

<sup>2</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

<sup>3</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

<sup>4</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

adopted by Commission Decision of 19 December 2013<sup>5</sup> and clarify the level of corrections to be applied in line with the principle of proportionality and Directives 2014/23/EU, 2014/24/EU and 2014/25/EU. Where relevant, these guidelines should also cover to contracts awarded under Directive 2009/81/EC<sup>6</sup>.

- (5) These guidelines should apply to financial correction procedures launched after the date of adoption of this Decision.
- (6) The Commission should use these guidelines to ensure equal treatment between Member States, transparency and proportionality when applying financial corrections in relation to expenditure financed by the Union,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

This Decision establishes guidelines, as set out in the Annex, for determining financial corrections to be made on expenditure financed by the Union under shared management in case of non-compliance with the applicable rules on public procurement.

#### *Article 2*

The Commission will apply these guidelines to financial correction procedures launched after the date of adoption of this Decision.

Done at Brussels, 14.5.2019

*For the Commission*  
*Corina CREȚU*  
*Member of the Commission*

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<sup>5</sup> C(2013) 9527 final.

<sup>6</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security (OJ L 216, 20.8.2009, p. 76).