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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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\(^1\), 2014/24/EU\(^2\) and 2014/25/EU\(^3\) 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\(^4\), 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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adopted by Commission Decision of 19 December 2013\(^5\) 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\(^6\).

(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 CREŢU
Member of the Commission

\(^{5}\) C(2013) 9527 final.