



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Food chain: Stakeholders and International Relations  
**Food Safety Programmes, Emergency Funding**

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**WORKING DOCUMENT**

**on**

**Principles and criteria to determine the reaction of the Commission in cases  
of unsatisfactory implementation of survey programmes co-financed under**

**Article 19 of Regulation (EU) No 652/2014**

## I. Introduction

In accordance with Article 19 of the Regulation (EU) No 652/2014, the Commission approves for Union co-financing, annual survey programmes concerning the presence of pests within the Union territory, submitted by the Member States.

Following each implementation year of a programme, the Member States shall submit a final technical and financial report and payment application to the Commission which thereafter decides on the payment of the Union contribution on the basis of assessment of the results of the programmes. Each programme results will be checked against the level of implementation of the measures described in the approved programme as well as, if applicable, the fulfilment of relevant EU legislative requirements.

The Commission has the duty of ensuring that the use of Union funds is in line with the principles of sound financial management laid down in the Financial Regulation (Regulation (EU) No 966/2012) which sets the rules applicable to the budget of the Union.

On the same line, the grant decisions awarded for national survey programmes and defining the conditions for the payment of the EU contribution include provisions for the reduction of the grant initially awarded, in case of poor, partial or late implementation of the programme.

The purpose of this document is to inform the Member States on the principles and criteria on which the Commission will base its reaction to the unsatisfactory implementation of Member State survey programmes co-financed under Article 19 of the Regulation (EU) No 652/2014.

The document does not cover the application of financial corrections in cases of failure to comply with EU rules not relating to the technical implementation of the programme, such as breaches of the legislation on the award of public contracts, competition, application for reimbursement of non-eligible costs, etc.

## II. Non-compliances or deviations from the approved programme activities requiring Commission reaction:

The non-compliances listed below should lead to a reaction by the Commission:

1. Severe or moderate non-fulfilment of EU minimum survey requirements (i.e. non-achievement of obligatory survey conditions set in EU legislation);
2. Non-realisation of planned activities of the programme (visual inspections, sampling, testing etc.) to an extent significantly affecting the achievement of its targets and objectives (early detection, control, mapping etc.).

## III. Assessment of the gravity of the non-compliance

### 1. Quantifiable level:

Where there are quantifiable legislative requirements concerning surveys which have not been satisfied or where there is quantifiable deviation from the targets/objectives set in the approved programme, the gravity of the failure shall be defined as follows:

Gravity level	Low	Moderate	Severe
Compliance with minimum legislative requirements <sup>i</sup>	≥ 90%	70-90%	<70%
Compliance with targets, objectives and/or results set in approved programme	≥80%	60-80%	<60%

Moderate or severe failure may be assessed by the Commission on the following possible mitigating elements:

- factors affecting the activities (visual inspections, sampling, testing etc.) fully outside the control of the competent authorities;
- any valid technical justification provided by the Member States which is linked to the specific plants, pests, and territories concerned.

#### *2. Non-quantifiable level:*

The failure of the survey activities might be clearly due to deviation from the scheduled activities or acceptable practices, however without the possibility to make a direct quantitative assessment of the extent of that failure. In such a case, the Commission will define the gravity of that failure on the basis of the negative impacts of that failure to the objectives of the survey programme.

### **IV. Additional elements to assess the non-compliance**

The following elements will be taken into account in the assessment for the application of financial corrections as set in the table under point V.2:

- The evolution of the deficiencies from previous years, in case previous data exists (first time occurrence, improving, stable, aggravating, etc.);
- Intention or degree of negligence of the competent authority (CA);
- Measures taken by the CA to remedy the situation;
- Duration of the non-compliance.

### **V. Approach followed**

#### *1. Procedures, principles and criteria of Commission's reaction*

The Commission's reaction will take place in accordance with the following procedures, principles and criteria:

- The occurrence of any of the non-compliances listed in point II will lead to at least a warning letter by the Commission to the CA of the MS. That letter will explain the unsatisfactory evaluation of the results of the programme and mention that financial corrections would be applied should no significant improvement be achieved in the following year(s).
- Moderate and severe non-compliances that are repeated for two or more consecutive years with no significant improvement, will always lead to the application of financial corrections.
- In cases where the situation is not satisfactory but there is a significant improvement on the non-compliance comparing to the previous year it may be decided to derogate from the second bullet point and not apply financial corrections, always taking into account the gravity and the consequences on the objectives and the cost effectiveness but also the principle of equal treatment between MS.
- Non-compliances occurring only in a specific priority area of the programme (e.g. total budget allocated to a priority area affected by a lower level of implementation of the measures described in the approved programme).
- In cases of severe shortcomings in the implementation of critical activities (e.g. non- or very low implementation of visual inspections, sampling, testing etc) which affect the achievement of the objectives of the approved programme, the Commission may apply a financial correction of 100% to the reimbursement of all the eligible activities under the programme by derogation to the method described in point IV.2.

In all above points, the Commission will apply the principles of equal treatment of all MS, cost effectiveness of each action, and proportionality of each reaction taking into account the gravity and justification of each error or omission.

*2. Level of financial correction:*

The level of correction to be applied is decided taking into account the level of the gravity of the non-compliance but also the elements described in part IV:

<b>Level of non-compliance</b>	<b>Basic level of correction (first time)</b>	<b>Maximum level of correction</b>	<b>Multiplication factor for non improvement in subsequent year</b>	<b>Multiplication factor for significant improvement in subsequent year</b>
<b>Moderate</b>	10%	50%	x2	x1 or x 0.5
<b>Severe</b>	25%	100%	x2	x1 or x 0.5

If there are unequivocal evidences to demonstrate that up to a certain extent the non-compliance is a consequence of the CA intention or negligence, or the Commission assessment concludes that measures taken by the CA to remedy the situation are insufficient, up to 10% could be added to the basic level of correction.

Corrections of less than 10% shall not be applied.

**Example:** *The programme of Member State X demonstrates a non-compliance of moderate gravity for 5 consecutive years with no improvement.*

*Commission reaction:*

*Year 1: Warning letter;*

*Year 2: 10% correction (first year of correction, basic level)*

*Year 3: 20% correction (level applied in previous year x2 – non improvement);*

*Year 4: 40% correction (level applied in previous year x2 – non improvement);*

*Year 5: 50% correction (previous year x2, but 50% ceiling attained).*

**VI. Entry into force**

These provisions will apply starting from the reimbursement of programmes implemented in 2017

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<sup>i</sup> If applicable