



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

Directorate E : Migration and Security Funds; Financial Resources
The Director

Brussels,
HOME.E.1

Subject: COVID-19 impact on national programmes and force majeure

Dear Representatives of the Member States,

Due to the coronavirus outbreak and its effects, we are sending you this letter of reassurance as well as an attached Q&A to help clarify the impact of the COVID-19 on the implementation of your national programmes under AMIF and ISF.

We would like to reassure you that the Commission services consider that the COVID-19 outbreak effectively constitutes a case of *force majeure*. We are fully aware that it may therefore prove necessary to proceed with certain expenditure under the national programmes for items that could not be reimbursed or cancelled.

As stipulated under the legal framework, eligibility of costs is governed by national legislation. Still, depending on the legal framework of the Member State, *force majeure* may also be invoked even if not explicitly provided for in the national eligibility rules.

The principle of sound financial management continues to apply. Decisions should, as always, be substantiated, showing precautionary steps were taken to the extent possible by the beneficiaries of the projects and the RA to avoid negative financial impact.

Attached you will find a short Q&A concerning issues that have been raised in recent days to further clarify these elements. Should you have further questions, please do not hesitate to send them to HOME-AMIF-ISF-COMMITTEE@ec.europa.eu.

We will be in touch again as the situation unfolds and new questions arise. Meanwhile we hope you all are safe and well.

Yours sincerely,

[e-Signed]
Beate GMINDER

Annex Q&A

Reallocation of funds:

Question: Is it possible to reallocate funds within the national programme to deal with (effects of) COVID-19?

Provided the new projects fall within the specific objectives of the programmes, this can be possible. In line with guidance note AMIF-ISF/2015/07¹, it is possible to do a transfer of funding between the Specific objectives of the national programme without a formal revision.

However it has to result in an increase for one of the specific objectives by less than 10% of the basic amount allocated to the given national programme². For more detailed explanations, please consult the above-mentioned guidance note.

In the case of the ISF national programmes, the transfer of funding between the Specific objectives has to be considered for each component separately, i.e. for the ISF-Borders and for the ISF-Police. Transfer of amounts between the two instruments, ISF-Borders and ISF-Police, is not possible.

We encourage you to coordinate with the managing authorities of the national programmes under other EU funding instruments, which could prove useful in tackling COVID-19 related needs for the migrant population both at national and regional/local level.

Change of deadlines:

Question: Will there be a change in the deadlines for the submission of documents (Annual Implementation Report, draft National programmes for the next programming period etc.)?

No change of the legal and procedural deadlines is foreseen. Deadlines are fixed in the legal base or were proposed to ensure the smooth and timely preparation of the next programming period.

At the same time, we fully acknowledge the difficult situation in which work is taking place. For specific cases where *force majeure* blocks you from submitting within deadlines, we would be grateful if you could inform us as soon as this is known.

¹ Ares(2015)2446666 - 11/06/2015.

² Basic amounts are established in Annex I of the AMIF Regulation and the ISF-Borders Regulation and in Annex III of the ISF-Police Regulation.

Decommitment :

Question: If because of COVID-19 implementation is slowed, will this have an impact on the amounts at risk of decommitment?

The deadlines and stipulations of the horizontal regulation (Regulation (EU) 514/2014) continue to apply. Member States at risk of decommitment for the financial year 2018 will receive the warning letters in the coming weeks.

When the actual decommitment procedure is then reached beginning of next year, the COVID-19 outbreak can be considered as *force majeure*. Article 51 §1 (b) allows to exclude amounts from decommitment which the Responsible Authority has not been able to declare because of *reasons of force majeure seriously affecting the implementation of all or part of the national programme*. It will be necessary to demonstrate the direct consequences of the force majeure on the implementation.

Travel cost reimbursement:

Question: Due to the travel restrictions, individuals were not able to attend meetings and events organised by Commission/RA/beneficiaries for the purposes of current projects/grants. Does the Commission reimburse travel costs?

Where individuals who were to take part in such meetings or events are prevented from doing so due to COVID-19 outbreak, expenses of travel and/or accommodation that could not be cancelled and which are not reimbursed from other sources are eligible costs.

Staff costs:

If a project was awarded and it ceases most of its operations temporarily due to lockdowns etc, but staff continues to be paid do the staff costs stay eligible? There may be circumstances in which unavailability of key staff or the impossibility of carrying on work in a zone affected by the virus prevents fulfilment of a contractual obligation. If such cases are reported, and costs were already incurred they can be considered eligible due to force majeure?

Eligibility of expenditure under the national programmes is determined by national law, subject to common principles set out in Regulation 514/2014.

Situations should be judged and evaluated in the framework on the specific circumstances and in the current *force majeure* context. Provided the national framework rules allow for such measures and the expenditure meets the common principles for eligibility of the costs, then they could be considered eligible. MS will need to quote their legal framework to justify such expenditure.