



EUROPEAN COMMISSION
HEALTH & FOOD SAFETY DIRECTORATE-GENERAL

Food chain: stakeholder and international relations

Unit D4: Food safety programme, emergency funding

SANCO/12785/2012 Rev3

WORKING DOCUMENT

on

**Principles and criteria on which is based the reaction of the Commission in
cases of unsatisfactory implementation of programmes co-financed under
Article 13 of Regulation (EU) No 654/2014**

I. Introduction

In accordance with Article 13 of the Regulation (EU) No 654/2014, the Commission approves for Union co-financing, annual and multiannual programmes for the eradication, control and surveillance of certain animal diseases and zoonoses 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's results are checked against the level of implementation of the measures described in the approved programme as well as 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 1929/2015) which sets the rules applicable to the budget of the Union.

On the same line, the grant decisions awarded for national 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 bases its reaction to the unsatisfactory implementation of Member State veterinary monitoring, control and eradication programmes co-financed under Article 13 of the Regulation (EU) No 654/2014.

The revised version of this document was produced taking into account the comments from Member States following the presentation of SANCO/12785/2012 Rev.1 at the Standing Committee on the Food Chain and Animal Health meeting on the 1 March 2013 and the adoption of the Regulation (EU) No 654/2014.

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, marketing authorisation of veterinary medicinal products, 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 monitoring or surveillance requirements (i.e. non achievement of obligatory testing targets set in EU legislation);
2. Obvious significant breach of relevant EU veterinary legislation (other than monitoring/surveillance requirements e.g. breach of legal provisions on the use of antimicrobials to control *Salmonella* infection, etc.);
3. Non realisation of planned activities of the programme (testing, vaccination etc.) to an extent significantly affecting the achievement of its objectives (early detection, control, eradication etc.) or cost effectiveness;
4. Implementation of practices or measures (regarding monitoring, surveillance, control, eradication, animal movements, identification, measures in case of positive results, etc) deviating from those foreseen in the approved programme significantly affecting the achievement of its objectives or cost effectiveness;

5. Failures, other than those in point 1 to 4, significantly affecting the achievement of the programme objectives and/or its cost effectiveness.

III. Assessment of the gravity of the non-compliance

1. Quantifiable level:

Where there are quantifiable legislative requirements (monitoring/surveillance) not being 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	$\geq 90\%$	70-90%	<70%
Compliance with targets/objectives set in approved programme	$\geq 80\%$	60-80%	<60%

As regards the targets set in the approved programmes not linked to legislative requirements, factors affecting the amount of activities (testing, animals culled etc.) fully outside the control of the Competent Authorities or other valid technical justifications provided by the Member States will be taken into account for defining the gravity of the under-implementation and the appropriateness of Commission reaction.

2. Non-quantifiable level:

Cases of breach of relevant EU legislation, alteration of practices of measures foreseen in the approved programme where it is not possible to make a direct quantitative assessment of the extent of the failure, the Commission defines the gravity taking into account the negative impact to the objectives and the cost effectiveness of the programme. For this purpose the Commission is using prevailing scientific knowledge and other existing guidelines or recommendations such as those developed in specific subgroups of the Task Force for Monitoring Animal Disease Eradication.

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 (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. Criteria

- The occurrence of any of the non-compliances listed in point II of this document should lead to at least a warning letter to the CA of the MS explaining the unsatisfactory evaluation of the results of the programme and mentioning 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, shall 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 region(s) of a MS could lead to the application of financial corrections only on the eligible measures for activities related to that specific region, taking however into account the consequences to the overall programme.
- Non-compliances occurring only in a specific subpopulation under the programme (e.g. TSE monitoring in small ruminants) could lead to the application of financial corrections only on the eligible measures for activities related to monitoring/surveillance described in the relevant part of the programme, taking however into account the consequences to the overall programme.
- In cases of severe shortcomings in the implementation of critical activities (e.g. non or very low implementation of foreseen vaccination) 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.

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:

Level of non-compliance	Basic level of correction (first time)	Maximum level of correction	Multiplication factor for non improvement in subsequent year	Multiplication factor for significant improvement in subsequent year
Moderate	10%	50%	x2	x1 or x 0.5
Severe	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 have applied starting from the reimbursement of programmes implemented in 2013.