

## 1. Purpose of the Procedure. Regulatory basis

The present procedure is aimed to set a framework and a unified approach for the Managing Authority (MA) for applying financial corrections in cases if projects financed by the Joint Operational Programme Romania - Ukraine 2014 - 2020 do not/partially achieve the indicators foreseen in the grant contract. The procedure is also to be used by the Joint Technical Secretariat (JTS) when providing the MA the analysis on the final reports with payment request submitted by the beneficiaries, along with the resulting proposals.

Application of this procedure is based on:

- Commission Implementing Regulation (EU) 897/2014 laying down specific provisions for the implementation of the cross border cooperation programmes under Regulation (EU) 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument, in particular art. 71,
- Regulation (EU, EURATOM) 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union,
- Government Emergency Ordinance 66/2011 on the prevention, identification and sanctioning of irregularities occurred in the collection and use of the European funds and/or of the national public related funds, amended, in particular art.6, as well as Government Decision no. 875/2011, approving the implementing rules for Government Emergency Ordinance 66/2011, in particular art. 5,
- The Joint Operational Programme Romania - Ukraine 2014 - 2020,
- Recommendations of the Audit Authority of the Joint Operational Programme Romania - Ukraine 2014 - 2020 following evaluation of the Management and Control System of the Programme,
- Guidelines foreseen for the grant applicants, in particular the evaluation criteria to be used by the programme to select the projects to be submitted following the Calls for proposals foreseen to be launched by the Programme,
- The foreseen grant contract provisions, in particular the sections concerning the purpose of the contract and administrative penalties and financial corrections.

## 2. General aspects

### 2.1 Intervention logic at programme level

The programme is looking to finance only projects that support achievement of the expected results and (common) outputs detailed in the programming document, fulfil clear quality criteria and demonstrate technical and financial viability.

To this purpose and irrespective that is financed following a Call for proposals or through direct award, any project must demonstrate its contribution to the programme expected results and programme (common) outputs, specific for the priority chosen, and gives indicators to measure their achievement.

In case of Calls for proposals, projects being awarded the highest scores at the end of the evaluation process are selected using the evaluation criteria specified in the Guidelines for

grant applicants and communicated in advance to the potential applicants, and financed following the JMC decision.

The Large Infrastructure Projects are indicated in the programming document and financed through direct award, following the JMC decision and EC approval.

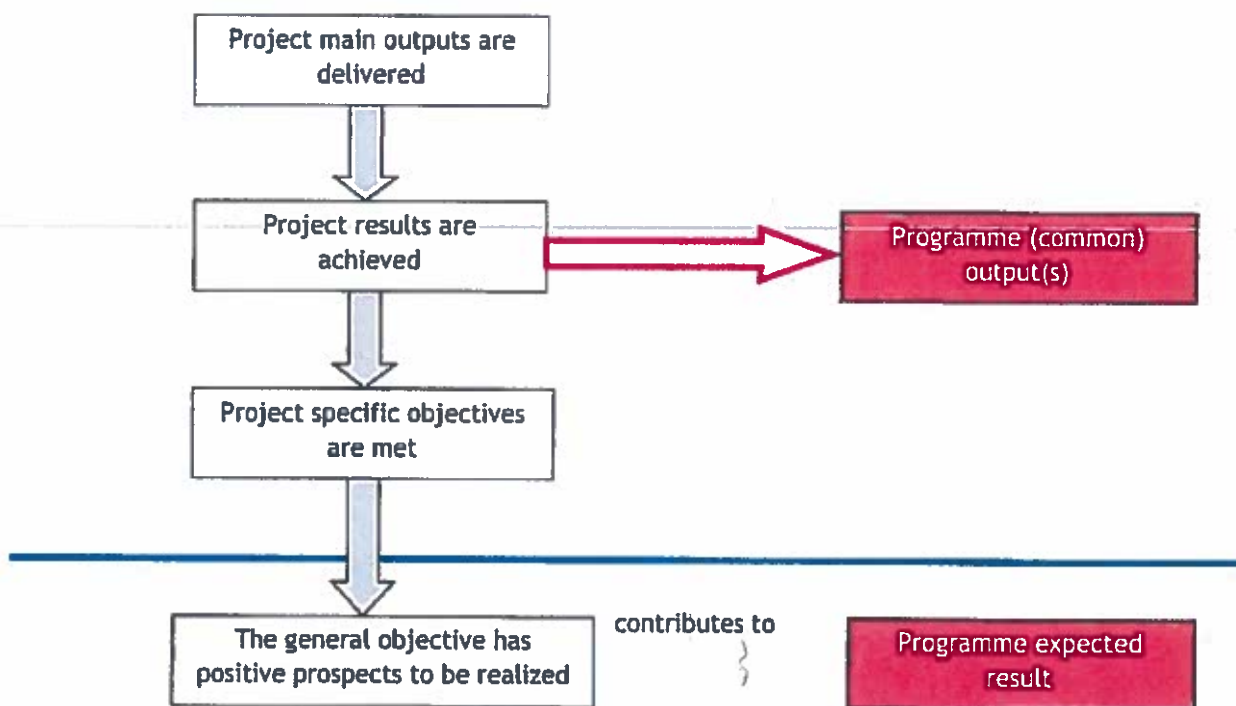
In either case, direct contribution of a project to:

- i) the programme expected result and the corresponding result indicator, following achievement of the project general objective and the corresponding indicator, AND
- ii) the programme (common) outputs and the corresponding output indicators, following achievement of all or some of the project results and the corresponding indicators,

is detailed within the application form.

Furthermore, project results are presumed achieved if the related main outputs are delivered. The application form gives details on the link between main outputs and the corresponding project result.

Having in view all the above, the programme intervention logic shows that:



In case if some main outputs are not/partially delivered by the project, and if the underlying not/partially achieved results affect project contribution to the programme (common) output(s), consequently, project contribution to the programme expected result might also be affected.

Note: For calculating the degree of the indicators achievement at the moment of the project closure, impact/ex-post indicators will not be considered.

## 2.2 Project monitoring

The Joint Technical Secretariat/Managing Authority ensure projects' monitoring during the implementation period, including the progress made towards achieving the main outputs and results specified in the grant contract.

Monitoring is performed according to JTS/MA internal procedures, and is aimed at collecting, analysing and processing project related information by means of project reports, on-site visits, analysis of addenda request, technical meetings, follow-ups, etc. One main result of any monitoring activity is, usually, an updated risk analysis accompanied by measures recommended in order to correct/alleviate/eliminate deviations and/or potential risks at project level, and ensure compliance with the grant contract provisions.

JTS/MA monitoring is supported and complemented by verification/control activities carried out by other programme structures (e.g. Control Contact Points, Audit Authority, and other control, verification and/or evaluation missions) which may issue supplementary recommendations and/or measures for projects.

At the end of implementation, JTS/MA examines the project performance, considering the grant contract and the relevant procedures in force. Basis of this examination is the final report with payment request submitted to the programme.

### 3. Methodology of applying and calculating financial corrections

Financial corrections shall be applied by the programme if the project did not/partially deliver (some) main outputs that affect achievement of result indicators directly contributing to programme (common) outputs indicator(s).

Depending on the Average Deviation Rate (ADR) calculated at project level, the following flat rates will be applied as financial corrections:

Average Deviation Rate of main outputs	Financial correction
ADR < 15%	no correction
ADR = 15 - 30%	5%
ADR = 30 - 45%	10%
ADR = 45 - 50%	15%
ADR > 50%	grant contract termination

The financial correction is to be applied at the total amount of eligible ENI at project level pertaining to the beneficiaries which did not/poorly implement their share of project activities, thus leading to not/partial delivery of main outputs which affected the project results contributing directly to (common) Programme output(s).

If the responsible beneficiaries cannot be identified, the financial correction shall be applied at the total amount of eligible ENI at project level, followed by distribution according to the specifications below.

Distribution of the financial correction shall be made between the project partners responsible for non/partial delivery of the respective main outputs. The amount of financial correction per partner will be proportional to their share of eligible ENI from the total eligible ENI pertaining to all the respective responsible partners, and is calculated as follows:

$$\text{Proportion partner X} = \frac{[\text{eligible ENI}_{\text{partner X}}]}{[\text{total eligible ENI}_{\text{responsible partners}}]} \times [100]$$

Special cases:

If the project includes an infrastructure component (in the meaning foreseen by the Guidelines for grant applicants/other relevant Programme/project documentation) having a value of 70% or more than the total costs included in the project budget and the respective component is finalised and functional by the end of the execution period, financial corrections will not be applied.

In cases where the non-achievement of the results is clearly not attributable to the beneficiaries involved in the grant contract, meaning that the situation is definitely not due to cases of negligence, intentional non-performance of key tasks, unjustified higher costs of some activities preventing the implementation of others (or other situations revealing non-efficient use of resources of the project), lack of adequate resources devoted to the project, other cases assessed concerning improper management/monitoring (internally) of the Actions, the JMA will make to the JMC a proposal of closing the project without applying financial corrections. The project will be closed according to the JMC decision.

On a case by case basis and according to the grant contract provisions, depending also on the nature and gravity leading to non-performance of projects, MA/JMC may decide to terminate the grant contract.

**Important:** The present procedure does not impede on the application of the relevant contractual provisions regarding termination of the grant contract.

## 5. Workflow

When non/partial achievement of the main outputs and results is detected, JTS shall require the project to explain the reasons leading to deviations, actions having been taken by the project partners in this respect, and their consequences (positive, negative, neutral) (see [Annex 1](#)). If the case, special site-visit may take place with the view to collect supplementary information.

Having in view the final report submitted, the analysis provided by the Lead Beneficiary on project's indicators, the special site-visit findings (if the case) and its own analysis, JTS concludes its examination (see [Annex 2](#)), and may propose the MA, as the case may be: project closure without recommending any financial correction, project closure and financial corrections to be applied, or termination of the grant contract (see [Annex 3](#)). Conclusions and the respective proposal shall be forwarded to MA together with the JTS analysis on the final report.

The workflow is as follows:

Action	Responsible	Result
Submission of the final report with payment request	Lead Beneficiary	final report with payment request
Examination of project indicators (main output(s), results)	JTS	JTS analysis, final site-visit report
Project analysis on not/partially achieved indicators, reasons, actions taken	Lead Beneficiary	project analysis ( <a href="#">Annex 1</a> )
Examination of project's analysis on the indicators, special site-visit (if the case)	JTS	site-visit report (if the case)
Analysis of the final report with payment request, including analysis of project indicators, conclusions and proposal of	JTS	analysis, conclusions and proposal of financial correction at project level, if the case ( <a href="#">Annex 2</a> and <a href="#">Annex</a>

Action	Responsible	Result
financial correction at project level, if the case		3)
Analysis of the final report with payment request, including the status of project indicators, decision on the financial correction to be applied, if the case/requesting JMC decision on waiving the application of corrections (as the case may be)	MA	issuing of the specific documentation regarding the projects' finalization and measures to be taken (monitoring department), authorization of the final payment (authorising department) and issuing the debt note, if the case (legal department)
Informing the JMC on the conclusions and measures taken, if corrections are applied	JTS	Information to the JMC

All the necessary steps related to closure of the grant contracts will be made within their execution period, as foreseen in the relevant contractual provisions.

If the amount to be reduced cannot be covered (fully or partially) from the final payment to be made to the Lead Beneficiary, a recovery order will be issued by the MA for the entire amount, or for the amount that cannot be retained from the final payment, as the case may be.

The Lead Beneficiary will be responsible for the repayment, in accordance with the grant contract provisions.

When analysing the final report, JTS/MA will also examine if:

- JTS/MA recommendations/measures have been duly and timely taken into account during project implementation,
- Project internal monitoring arrangements, including project management, have functioned efficiently,
- Risks affecting achievement of project indicators have been detailed in the grant contract and measures have been taken as provided therein,
- Changes and/or events outside the beneficiaries' control have hindered project implementation,
- Deviations of project indicators have affected (common) programme output(s) set in the grant contract,
- Deviations of project indicators have influenced the (expected) programme result set in the grant contract,

Project analysis on indicators ([Annex 1](#)) shows if actions have been taken at project level. JTS examination on project indicators ([Annex 2](#)) might highlight one or more of the situations above.



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Annex 1 Beneficiary's analysis on not/partially achieved project indicators

Project code	
Project title	
Lead Beneficiary	
ENI funds	[as contracted]

Not/partially achieved main project outputs				Project result affected	Responsible partner(s)	Reasons for deviation	Measures taken	Documentary evidence
Main outputs	Target value	Achieved value	Deviation [%]					
Not/partially achieved project results				Programme Output affected				
Results	Target value	Achieved value	Deviation [%]					