

VLOG Guideline

for Dealing with Violations

1 General

This Guideline serves as the basis for dealing with violations of the rules and requirements of Verband Lebensmittel ohne Gentechnik e.V. (hereinafter “VLOG”). The following user groups are contractually obliged to comply with the VLOG requirements.

- Sub-licensees for the “Ohne GenTechnik” seal
- Licensees for the “VLOG geprüft” seal
- Businesses certified according to the VLOG Standard (bound by the Standard Usage Agreement)
- VLOG-recognised certification bodies as well as auditors, evaluators and certifiers involved with them
- VLOG-recognised laboratories

This Guideline exclusively applies to violations that occur after its effective date.

2 Establishing Violations

Breaches of contractual agreements with VLOG and violations of VLOG Standard requirements can be established based on external information, regular VLOG audits or Integrity Audits, evaluations, or document reviews by the head office as well as in other ways.

The head office will promptly respond to information about possible violations by reviewing the necessary documents and requesting any appropriate statements, and/or ordering additional controls and reviews.

If there are indications of an actual violation, the head office will request a statement from the party involved within a brief, prescribed response period.

The internal process must be documented.

Possible violations include:

- Violations of the EC Genetic Engineering Implementation Act (EGGenTDurchfG) by sub-licensees
- Violations of the VLOG Standard by sub-licensees and licensees
- Violations of the VLOG Standard and the Guideline for Certification Bodies, Auditors, Evaluators and Certifiers by certification bodies or auditors, evaluators, and certifiers
- Breaches of other obligations of licensees, sub-licensees and certification bodies that are contractually stipulated (e.g. providing sales figures, paying licence fees, forwarding auditor documents, etc.)
- Violations of the VLOG Standard and the Guideline for Laboratories by laboratories

3 Dealing with Violations

If the information about a violation is confirmed, the head office will determine the severity of the violation with the aid of the violation classification keys in each user group (hereinafter “Classification Key”) and take

appropriate action. Independent personnel¹ at the head office will objectively evaluate violations and determine penalty actions.

Assignment of the Penalty Committee²

The head office will convene the Penalty Committee in the following cases:

- If stipulated by the Classification Key
- In cases that cannot be clearly classified by the head office
- In the event of disputed facts or if a business complains about the evaluation of a violation.

To facilitate scheduling, the head office will notify the Chair of the Penalty Committee of the penalty case as quickly as possible.

The VLOG head office will notify the affected contract partner of the involvement of the Penalty Committee. Contract partners who wish to provide new information, in addition to the statement made when the violation was found (see section 2), will have five business days after notification of the Penalty Committee involvement to respond to the charges and make a statement to the head office.

After receipt of the statement, the head office will provide the Penalty Committee with all necessary information and documentation and make itself available for questions.

Once the case has been transferred to the Penalty Committee (including the necessary information and the contract partner's statement, if any), the Penalty Committee will make a decision within 10 business days. To save time, the Penalty Committee may also discuss the case by telephone or video conference.

Decisions of the Penalty Committee

The decisions of the Penalty Committee are binding. In cases of particular relevance to licensing, the head office and/or the Management Board must be heard before establishing the penalty. Management Board members who are directly affected by the case or otherwise biased will be excluded from consultation and have no voting rights. The head office will immediately forward Penalty Committee decisions to the VLOG Management Board for informational purposes. Once the Penalty Committee has provided a written rationale for its decisions, the head office will execute the determined actions.

4 Classification of Violations

The nature and severity of the violations are described in the Classification Keys, which serve as guidance for the head office or the Penalty Committee.

Independent personnel¹ at the head office will objectively evaluate violations and determine penalty actions.

The penalties and maximum amounts of contractual fines will be based on the "Schedule of Penalties".

In cases where the Penalty Committee was not involved, but examination of the violation by the head office results in withdrawal of the right to use a licence, the VLOG head office will avail itself of the legal expertise of the Penalty Committee.

¹ Employees who were not involved in verifying the violation. For example, this excludes the relevant Integrity Auditor.

² For additional information, cf. section 6

5 Handling and Monitoring of Penalty Actions

The head office will give the contract partner or the member prompt written notice of any further procedures (e.g., required actions, penalties, fines, etc.). If necessary, the head office will also conduct chargeable checks/audits.

The head office is permitted to inform other contract partners or members about the violation and the actions taken. In particular, this will apply to cases involving:

- withdrawal of a licence to use the “Ohne GenTechnik” or “VLOG geprüft” seal or
- incidents or penalties affecting the supply chain.

The costs incurred in connection with the penalty procedure, such as the Chair’s working hours, the Committee members’ travel expenses, a flat fee for expenses incurred for the head office’s work and the costs of experts, is to be borne by the penalised business.

6 Complaint and Appeal Proceedings

Within the context of the penalty procedure, all contract partners have the right to file a complaint or appeal with respect to the violation evaluation to the head office (sanktionen@ohnegentechnik.org). The head office will confirm the receipt of the complaint or appeal and the involvement of the Penalty Committee within five business days. The Penalty Committee will render decisions on complaints and appeals (cf. section **Fehler! Verweisquelle konnte nicht gefunden werden.**). The head office will then inform the contract partner of the Penalty Committee’s decision.

Following the Penalty Committee’s evaluation of a complaint or appeal from a penalised business, VLOG or the business, as stipulated by the Penalty Committee, will bear the costs incurred in connection with the penalty procedure (such as the Chair’s working hours, the Committee members’ travel expenses, a flat fee for expenses incurred for the head office’s work and the costs of experts), as follows:

- If the business complaint with respect to the violation evaluation is successful, there is no violation by the business and VLOG will assume the cost of the penalty procedure.
- If the business complaint with respect to the violation evaluation is partially successful, i.e. the violation is less serious, VLOG will assume a prorated share of the costs at its good-faith discretion based on the decision of the Penalty Committee, taking the fact into account that the complainant partially prevailed.
- If the business’s complaint is unsuccessful or it is decided that the violation is more serious than originally assumed, the penalised business will assume the cost of the penalty procedure.

7 Penalty Committee

The Penalty Committee is appointed as a neutral body. The Penalty Committee comprises selected representatives of the user groups integrated into VLOG and an attorney designated by the head office. The Committee will always consist of five persons: an attorney (Chair) and one business representative from each of the following areas: the feed industry, the food processing industry and the food retailing industry, as well as a representative of a VLOG-recognised certification body.

If the Penalty Committee is deciding a case, the person from the industry involved will have no voting rights. In the food processing area, voting rights will only be void if the case to be decided relates to the same product group.

The head office will select Penalty Committee members from a pool of potential Penalty Committee participants based on their expertise, independence, and availability with respect to the violation to be addressed. There is a substitution rule in case the Chair is unable to attend.

The Chair of the Penalty Committee may consult external experts as necessary, but the associated costs must be clarified with the head office in advance.

The Penalty Committee will work on a voluntary basis, except for the attorney. Committee member expenses, such as travel expenses, will be reimbursed by VLOG.

The Penalty Committee has a quorum if the attorney and at least three additional members are in attendance.

The Penalty Committee will render its decisions by simple majority vote. In the event of an impasse (i.e., a tied vote), the Committee Chair's vote will count as two votes. Written minutes must be kept, which at a minimum must include the names of the participants, the decision with a rationale and a list of the documents utilised to make the decision. The approved minutes are to be promptly sent to the head office.

Penalty Committee members are subject to confidentiality obligations, both during and after the conclusion of their activities for the Penalty Committee. Confidentiality obligations must be set forth in a non-disclosure agreement.

Classification of Violations

by VLOG-Recognised Laboratories

Minor violations

- The documents to be submitted for maintaining VLOG recognition were incomplete or not submitted in a timely manner (deadline for the previous calendar year: no later than 31 March of the following year) and not submitted or completed within two months (by 14 April) after the expiration of the deadline.
- The period of four weeks for sending the updated accreditation certificate in the event of re-accreditation or change to the scope of accreditation was not complied with and also not submitted within two weeks after expiration of the deadline.
- VLOG was not informed of changes to outsourcing.
- Issuance of a test report that does not comply with the requirements of the VLOG Standard and exhibits merely deviations in form (e.g. failure to cite the uncertainty of measurement, mandatory information on test reports). On the other hand, the requirements put on the testing method and the scope of testing pursuant to the VLOG requirements were complied with.

Significant violations

- Occurrence of more than two minor violations within one year.
- Failure to perform corrective measure for minor violation.
- Noncompliance with requirements of the VLOG Standard and/or the “Guidelines for VLOG Recognition of Laboratories” (e.g. failure to use the correct method or dysfunction in the laboratory’s QM system) that have no effect on the test result and the legal assessment.
- Results are wrongly interpreted (e.g. a botanical impurity is classified as subject to compulsory labelling although the sample would nevertheless be suitable for VLOG and vice versa).
- Lack of cooperation in VLOG’s integrity checks or in submission of documents to VLOG for review (e.g. insufficient provision of information or documents).
- Failure to submit a statement regarding a violation on time or only response after a repeated request.

Major violations

- Occurrence of more than two significant violations within one year.
- Failure to take corrective action after a significant and major violation.
- Significant deviations from the VLOG requirements and/or the “Guidelines for VLOG Recognition of Laboratories” (e.g. confirmation of VLOG Standard, although the scope of testing does not comply

with VLOG requirements; unequivocally false assessment) that have an effect on the test result and the legal assessment.

- The laboratory awarded GMO testing according to the VLOG Standard as subcontracts or outsourcing to a “**non**-VLOG-recognized laboratory”.
- Deliberate manipulation of test reports or other documents.
- Deliberate or grossly negligent issuing of test reports despite the failure to comply with the VLOG Standard and/or the "Guidelines for VLOG Recognition of Laboratories".
- Denial of access to the laboratory for VLOG employees or a person contracted by VLOG on the previously-announced day of the Integrity Laboratory Audit, although notice of the auditor and date of the audit had been given at last 2 weeks in advance.
- Testing methods used are not accredited.
- VLOG was not informed of the withdrawal of accreditation for individual methods according to ISO/IEC 17025 within the contractually stipulated period of five business days.
- Use of wrong documents with effect on the test result (e.g. wrong version of the Standard, wrong version of the Guidelines for VLOG Recognition of Laboratories in the event that the requirements have changed, e.g. for the scope of testing).

The above-listed violations are intended to serve as guidance in evaluating and classifying violations not mentioned here. The four-eyes principle will be used to assess and categorise violations.

Schedule of Penalties for Violations by VLOG-recognised Laboratories

VLOG penalty actions are always a case-by-case decision.

1 Types of Violations

Violations of VLOG rules and VLOG Standard specifications are divided into three levels of severity:

- minor violations
- significant violations
- major violations

1.1 Minor violations

If a minor violation is found, the VLOG head office will issue a written warning with a request to take all necessary actions to avoid a recurrence.

No penalty points are assessed for minor violations; however, the third and every additional minor violation within a year will be considered significant violations under section 1.2 (even if they are different violations). The legal consequences set forth in section 1.2 will apply.

1.2 Significant violations

If a significant violation is found, the VLOG head office will issue a written warning with a request to take all necessary actions to avoid a recurrence. Evidence of compliance must be presented to the VLOG head office on time (e.g., by submitting a training certificate, evidence of updated internal requirements, etc.). In addition, one penalty point will be assessed. The third and every additional significant violation within a year will be considered major violations under section 1.3 (even if they are different violations). The legal consequences set forth in section 1.3 will apply.

1.3 Major violations

If a major violation is found, the VLOG head office will issue a written with a request to take all necessary actions to avoid a recurrence. Evidence of compliance must be presented to the VLOG head office on time (e.g., by submitting a training certificate, evidence of updated internal requirements, etc.). In addition, three penalty points will be assessed.

Table 1: Consequences of minor, significant, and major violations

Type of violation	Penalty action (examples)	Penalty points per violation	Penalty action in case of recurrence (within one year)
Minor	Written warning	0	The third minor violation and all subsequent violations will be classified as significant violations.
Significant	Revision of internal documents/processes and Integrity Audit of the laboratory at the laboratory's expense Temporary suspension of the laboratory	1	The third significant violation and all subsequent violations will be classified as major violations.
Major	Integrity Audit of the laboratory at the laboratory's expense Loss of recognition	3	

2 Consequences of accumulated penalty points

The penalty points for violations of the same type and different types will be added up.

2.1 Penalty points ≥ 3

If 3 or more penalty points are accumulated within one year (365 days starting from the date on which the first violation was found), the VLOG head office will impose/initiate the following further actions at its discretion:

- Conduct of a VLOG Integrity Audit of the laboratory at the laboratory's expense

The costs for the respective action will be the responsibility of the affected laboratory. The costs of the daily rates for VLOG employees or external experts commissioned by VLOG can be found in the VLOG-licence fee schedule.

2.2 Penalty points ≥ 6

- Immediately after reaching six penalty points, the laboratory shall be suspended for three months and may not conduct any tests according to the VLOG Standard during this period. After the expiry of the three-month suspension period, VLOG reserves the right to conduct an Integrity Audit of the laboratory at the laboratory's expense

2.3 Penalty points ≥ 9

Certification bodies that incur at least nine penalty points or incur a suspension of at least three months and ≥ 3 additional penalty points within two years will immediately be referred to the Penalty Committee to consider whether further action or penalties may be necessary, e.g., an additional suspension of three months, termination of recognition as a VLOG-recognized laboratory.

Table 2: Consequences of accumulated penalty points

Penalty points	Penalty
≥ 3 penalty points within one evaluation year	Integrity Audit of the laboratory at the laboratory's expense
≥ 6 penalty points within one evaluation year	Laboratory will be suspended for three months and may not conduct any VLOG tests during this period.
≥ 9 penalty points or a suspension of at least three months and at least three additional penalty points within two years	The Penalty Committee is tasked to determine additional penalties, if necessary, e.g., a new temporary suspension or termination of recognition as a VLOG-recognized laboratory.

3 Handling of Suspensions and Contract Annulments

If a three-month suspension is imposed and recognition as a VLOG-recognized laboratory is terminated, the VLOG head office will make a case-by-case decision (depending on the type and scope of the violation) of the consequences this action may have on the following aspects:

- For tested goods that have not been placed on the market by the laboratory's customer or used in feeding: The suspended laboratory must have the sample re-examined by another VLOG-recognised laboratory. The costs of this shall be borne by the suspended laboratory.
- Goods that have already been placed on the market or used in feeding need not be re-examined.
- Ongoing testing procedures or processes and planned re-examinations must be assigned to another VLOG-recognised laboratory in coordination with the laboratory's customer

If a laboratory is suspended from conducting VLOG tests, all relevant laboratory customers must be informed of this.

4 Evaluation Year

An evaluation year begins on the date the first violation is found.

The date assigned to the violation and/or the assessment of penalty points is the date on which VLOG first gives the laboratory written notice of the violation or the assessment of penalty points.

5 Expungement of Penalty Points

After the expiry of the evaluation year for a particular violation, the penalty points for the violation will be expunged. A new evaluation year will begin on the date a new violation is found.

Example

- A significant violation is found on 20 March 2022 → assessment of one penalty point. This penalty point will be expunged after the expiry of the evaluation year on 20 March 2023.

- An additional significant violation is found on 13 October 2022 → assessment of one penalty point. At this time, the sum of the penalty points is two.
- A major violation is found on 10 January 2023 → assessment of three penalty points. At this time, the sum of the penalty points is five. Since the sum of the penalty points is five, the VLOG head office will take further action in accordance with section 2a.
- One penalty point for the violation of 20 March 2022 will be expunged on 20 March 2023. At this time, the sum of the penalty points is four.

After a suspension of at least three months or termination of recognition as a VLOG-recognized laboratory, all penalty points will be expunged (see 2.3 for an exception). A new evaluation year will begin on the date a new violation is found. Following the expiry of the three-month suspension period, VLOG reserves the right to conduct a Laboratory Integrity Audit after a reasonable period of time (about six months).

Following the loss of recognition, a new application for recognition may not be filed until after a period of three months.