ANTI-FRAUD STRATEGY
INTERREG IPA ROMANIA-SERBIA PROGRAMME

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Abbreviations

AS	Antifraud Strategy
AFCOS	Protection of European Union Financial Interest Directorate – AFCOS Directorate
DLAF	The Fight Against Fraud Department
FLC	First level control
JS/JS Antenna	Joint Secretariat/ JS Antenna from Zrenjanin
MDPWA	Ministry of Development, Public Works and Administration
MA	Managing Authority for Interreg IPA Romania-Serbia Programme
MC	Monitoring Committee
NA	Serbian National Authority for Interreg IPA Romania-Serbia Programme
NAI	Romanian National Agency of Integrity
NAD	Romanian National Anticorruption Directorate
OLAF	European Anti-fraud Office
Ro-RS Programme	Interreg IPA Romania-Serbia Programme

PRINCIPLE

Zero tolerance to fraud!

FOREWORD

The Anti-Fraud Strategy outlines the Interreg IPA Romania-Serbia Programme commitment to minimize the risk of loss to the Programme level resulting from fraud and corruption originating both internally and externally.

The management structures of the Interreg IPA Romania-Serbia Programme are committed to maintain high legal, ethical and moral standards, to adhere to the principles of integrity, objectivity and honesty and wishes to be seen as opposed to fraud and corruption in the way that it conducts their business. All members of staff are expected to share this commitment.

There is an expectation and requirement that all staff of the management structures of the Programme, project partners and contractors be fair and honest and, if able to do so, provide help, information and support to assist the investigation of fraud and corruption.

LEGAL BASIS

The Anti-fraud strategy is developed in compliance with the EU legal provisions, foreseen within the following documents:

- Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union,

- Regulation no.1046/2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012,

- Regulation (EC) no. 1060/2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy

- Regulation (EU) no. 1059/2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments

- Regulation (EU) 1529/2021 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III);

- EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF_14-0021-00

Thus, according to Article 63(2) letter c) of the Financial Regulation, Member States *(…) shall take all the necessary measures, including legislative, regulatory and administrative measures,*

to protect the financial interests of the Union, namely by preventing, detecting and correcting irregularities and fraud.

Article 46 (1) of the Interreg Regulation, respectively Article 69 (1) and (2) of the CPR states that the member states shall have management and control systems for their programmes and ensure their functioning in accordance with the principle of sound financial management and the key requirements listed in Annex XI. Member States shall ensure the legality and regularity of expenditure included in the accounts submitted to the Commission and shall take all required actions to prevent, detect and correct and report on irregularities including fraud.

In addition to this, provisions of Article 74 (1) letter c) of the CPR lays down that the Managing Authority shall have effective and proportionate anti-fraud measures and procedures in place, taking into account the risks identified.

DEFINITIONS

In accordance with the Council regulation (EC, Euratom) no 2988/95 *irregularity* corresponds to a wide concept that covers intentional and non-intentional action committed by economic operators. The above mentioned Regulation defines *irregularity* – Art. 1(2) as:

Any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditures.

The *Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union*[1] defines **fraud** affecting the European Communities' financial interests as[2]

(a) in respect of expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,

- non-disclosure of information in violation of a specific obligation, with the same effect,

- the misapplication of such funds for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of

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[1] http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:41997A0625%2801%29&from=EN, Official Journal C 195 , 25/06/1997 P. 0002 - 0011

[2] *Ibidem,* Article 1

the European Communities or budgets managed by, or on behalf of, the European Communities,

- non-disclosure of information in violation of a specific obligation, with the same effect,
- misapplication of a legally obtained benefit, with the same effect.

Thus, it is the intentionality trait that distinguishes *fraud* from the more encompassing term of *irregularity*.

A broad definition of **corruption** used by the European Commission is the abuse of (public) position for private gain. Corrupt payments facilitate many other types of fraud, such as false invoicing, phantom expenditure or failure to meet contract specifications. The most common form of corruption is corrupt payments or other advantages; a receiver (passive corruption) accepts a bribe from a giver (active corruption) in exchange for a favour[3].

I. GENERAL CONSIDERATIONS

I.1. Aim

Our aim is to minimize opportunities to commit fraud and corruption through the introduction of appropriate fraud response plans to protect the Programme resources. Thus, the Strategy is designed to:

- encourage prevention of fraud at the Programme level
- promote fraud detection
- ensure effective communication with the national structures responsible with the investigation where suspected fraud or corruption has occurred, including reporting both nationally and to the European Anti-Fraud Office.
- recover the unduly paid financial resources, according to the court decisions.

I.2. Mission

The Anti-Fraud Strategy sets out clearly the Programme management structures joint approach to managing the risk of fraud and dealing with all aspects of fraudulent activity that may occur at the Programme level.

I.3. Objectives

In support of the Anti-fraud strategy, the following objectives have been set:

- To minimise the opportunities for individuals to commit fraud and provide an effective response when fraud occurs.

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[3] EU Guide *Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures*, EGESIF_14-0021-00

- To raise awareness of the fraud risks and ensure that effective anti-fraud measures are in place.

- To conduct assessment of fraud risk and review of high risks on the area vulnerable to fraud.

II. STRATEGIC APPROACH

Combating fraud requires a strategic approach to preventing, detecting and investigating the loss of the Programme funds. To tackle fraud threats effectively, all the actors involved into the Programme management (Programme managing structures) need to work collaboratively to prevent and detect fraudulent behaviour.

The actors involved within Anti-fraud strategy are:

- **Managing Authority** for Interreg IPA Romania-Serbia Programme, namely the Romanian Ministry of Development, Public Works and Administration;

- **Joint Secretariat** - constituted within the Regional Office for Cross Border Cooperation Timisoara; **Joint Secretariat Antenna in Zrenjanin;**

- **National Authority** for Interreg IPA Romania-Serbia Programme - constituted within the Serbian Ministry of European Integration;

- **National control** systems (Romania and Serbia);

- **Audit Authority** (including members in the Group of Auditors).

To these, the **applicants** and the **project partners** may be added as they have an important role in the Programme implementation.

Responsibilities

Managing Authority

At the Programme level, the Managing Authority has the overall responsibility for managing the risk of fraud and corruption. Thus, the MA has the responsibility for:

• Establishing an effective anti-fraud strategy;

- Promoting the Programme unequivocal message of zero tolerance to fraud

- Undertaking a regular review, with the help of a risk assessment team, of the fraud risk;

- Establishing an effective anti-fraud strategy and fraud response plan;

- Ensuring fraud awareness of staff and beneficiaries and training of staff;

- Ensuring that an adequate system of internal control exists within its area of responsibility;

- Preventing and detecting fraud;

- Referring promptly investigations to competent investigation bodies when they occur according to its internal working procedures and national/EU legal provisions;

- Reporting to competent investigative authorities, including the electronic reporting via the Irregularity Management System (IMS), where applicable.

The Head of the MA is responsible for the day-to-day management of fraud risks and action plans, as set out in the fraud risk assessment and particularly for:

- Coordinating the risk assessment team set up at Programme level for undertaking regular review of fraud risks,
- Ensuring due diligence and coordinating the implementation of precautionary actions to fight fraud,
- Taking corrective measures, as foreseen by the relevant legislation.

Joint Secretariat, including JS Antenna

The Joint Secretariat is responsible for:

- Promoting the Programme unequivocal message of zero tolerance to fraud
- Referring promptly investigations to MA when they occur, according to the working procedures and national legal provisions
- Participating in the regular review of the fraud risks at Programme level,
- Ensuring fraud awareness and training for its staff,
- Immediately informing the MA/NA about fraud suspicions.
- Ensuring that an adequate system of control exists at JS level,
- Preventing and detecting fraud at JS level and project level,
- Ensuring due diligence and implementing precautionary actions in case of suspicion of fraud at JS and beneficiaries level,
- Taking corrective measures at its level and ensuring the implementation of the corrective measures at the beneficiaries' level, with the approval of MA.

National Authority

The National Authority is responsible for:

- Promoting the Programme unequivocal message of zero tolerance to fraud and participate to the regular review of the fraud risks at Programme level (participate to the work of the risk assessment team set at Programme level),
- Ensuring fraud awareness and training for its staff,
- Reporting to MA on fraud cases,
- Ensuring that an adequate system of control exists at NA level,
- Referring promptly investigations to competent investigation bodies when they occur according to its internal working procedures and national/EU legal provisions;
- Taking corrective measures, as foreseen by the national legislation.

First level control

The Romanian and Serbian first level controllers are responsible for:

- Detecting fraud at beneficiaries level,
- Immediately reporting to MA/NA, on fraud suspicions according to its internal working procedures.

Audit Authority

The Audit Authority has the responsibility to act in accordance within professional standards in assessing the risk of fraud and the adequacy of the control framework in place.

To achieve the objectives of this strategy, the activities are designed as follows:

1. Strategy and ethical culture
2. Fraud risk management
3. Fraud prevention
4. Fraud detection and reporting
5. Investigation, criminal prosecution
6. Recovery of the prejudice on the Programme funds
7. Follow up and learning

1. **Strategy and ethical culture**

   The Programme management bodies are continuing to develop an effective strategic framework to fight fraud, through their internal working procedures. Thus, elements regarding the fraud cycle (prevention, detection, reporting) are included into the internal working procedures and checklists used by the Managing Authority, National Authority, Joint Secretariat, first level controllers (both Romanian and Serbian). The

provisions of working procedures are well known by the staff and implemented accordingly.

Also, this strategy makes it clear to the staff of the Programme management bodies the high standards and behaviour expected to support the development of a sound ethical culture.

In the same time, the applicants and the project partners are expected to act ethically and to observe the legal provisions and the documents provided by the Programme management structures.

2. Fraud risk management

The fraud risk management is a component of the risk management focusing on the risks associated with the potential to commit fraud. The fraud risk management is tackled according to the Programme procedures on *Fraud risk assessment*. Thus, fraud risks will be considered and evaluated with appropriate mitigation measures taken to reduce the likelihood of fraud occurring.

The Programme management structures have set a **self-assessment team**, responsible with carrying out the fraud assessment risks at programme level. The structure of this team includes[4] representatives of Managing Authority, National Authority, Joint Secretariat, Romanian and Serbian FLC units. These representatives have different responsibilities, including projects' monitoring, desk and on the spot verification and authorisation of payments, public procurement. Taking into consideration the cost and time constraints the online consultations by email will be organized.

Also, the representatives of internal audit or AA are invited to participate as observers, if the subjects are relevant for audit missions.

The self-assessment team shall use in its work the self-assessment tool provided by EC[5], which covers the likelihood and impact of specific and commonly recognised fraud risks particularly relevant to the key processes:

- Projects' assessment and selection;
- implementation of the projects by the project partners, focusing on public procurement;
- risk-based management verification process of expenditures by the MA and payments;

The methodology for this fraud risk assessment has **five main steps**[6]:

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[4] The structure observes the provisions provided by the EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF_14-0021-00
[5] Please see the self-assessment tool, annex 1, EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF_14-0021-00
[6] *Ibidem*, page 9
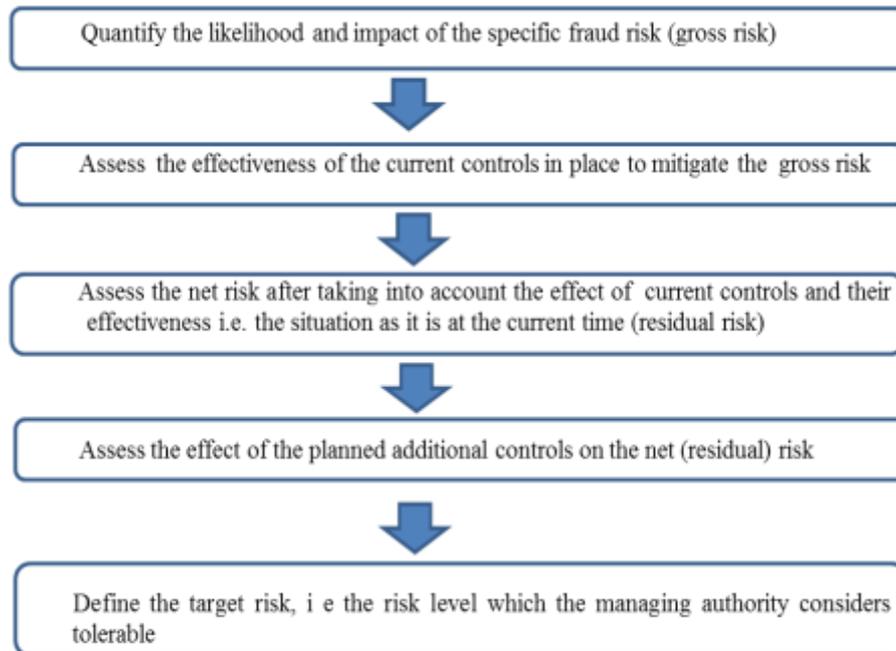
For each of the specific risks, the overall objective is to assess the 'gross' risk of particular fraud scenarios occurring, and then to identify and assess the effectiveness of controls already in place to mitigate against these fraud risks either from occurring or ensuring that they do not remain undetected. The result will be a 'net' current risk which should lead an internal **action plan** to be put in place when the residual risk is significant or critical in order to improve controls and further reduce the exposure of the Programme management structures to negative consequences. For each risk, mitigation measures/controls are identified for reducing the impact. These measures are transposed in the operational procedures (e.g. first level control guidelines, risk-based management verification methodology, monitoring procedure) and are described in DSMC. These measures provide the framework for preventing fraud and for identifying the red flags and fraud indicators that may alert a suspicion of fraud.

The cases of suspected and actual fraud which have occurred shall be analysed in view to improve the internal management and control system, where necessary.

The self-assessment tool is completed/updated on an annual basis. However, more regular reviews of progress against the action plan related to additional controls which were put in place, changes to the risk environment and the continuing adequacy of assessment scores may be necessary.

When the level of risks identified is very low and no instances of fraud were reported during the preceding year, the MA may decide to review its self-assessment only each second year. The occurrence of any new fraud instance, or main changes in the Programme procedures

and/or staff, should immediately lead to a review of perceived weaknesses in the system and of relevant parts of the self-assessment.

The action plan will be monitored and evaluated on an annual basis.

The self-assessment team will be consulted by email on an annually basis (or whenever necessary).

3. Fraud prevention

Prevention is a key strand that encompasses a number of diverse activities including creation of the right cultural environment which sets high ethical standards and behaviours. The aim is to prevent fraud occurring by adopting methods that decrease motive, restrict opportunity and limit ability for those committing fraud to be able to rationalise their actions. This will be achieved through: setting the right tone at the top; robust vetting of staff; appropriate system design and supporting procedures; effective communication and supervision and review; appropriate training; and maintaining an effective internal control framework.

As well, the staff of the Programme management structures are required to declare their personal interests and conflict of interests in accordance with the internal rules or code of conduct.

The Programme management structures are committed to working and co-operating with other national and EU institutions/organisations to prevent organised fraud and corruption. This may involve the exchange of information with other institutions and data, according to related protocols.

Also, in this regard, the Programme management structures will:

- Develop a set of rules at Programme level (eg. MC Code of Conduct and Rules for Procedure, declarations of impartiality and confidentiality for external experts or staff involved in public procurement procedures)
- Disseminate related presentations for the staff, but also for the members of Monitoring Committee.
- Disseminate EU information material/supporting documents for preventing fraud at project partners' level.

Also, on the Programme website, the Programme structures will promote the statement concerning the fight against fraud[7] - *Zero tolerance to fraud!* - and the contact details where a suspicion of fraud can be alerted.

Fraud detection and reporting

Fraud prevention techniques and measures may not stop all potential perpetrators and the early detection of fraud within the Programme reduces the detrimental impact and demonstrates a commitment to tackling fraud. So, the Programme management structures had developed systems, including internal working procedures that detect behaviour in a timely manner, namely:

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[7] www.romania-serbia.net

- The first level controllers use during the expenditures verifications checklists that may detect potential fraud indicators/red flags. According to the internal procedures, first level controllers shall immediately inform the MA/ NA, about a potential fraud. The Managing Authority/National Authority (through its dedicated units on management of irregularities) shall verify the reported cases for fraud indicators and shall report the cases to the relevant bodies responsible for fraud investigations.

- The Joint Secretariat may detect fraud suspicions during the administrative verifications of the project reports and also during the project monitoring process, including on-the-spot visits. If suspicions of fraud cases are identified, the JS shall inform the MA/ NA. The Managing Authority /National Authority (through its dedicated units on management of irregularities) shall verify the reported cases for fraud indicators and shall report the cases to the relevant bodies responsible for fraud investigations.

- The Managing Authority uses procedures and the JEMS system for detecting potential fraud. Also, potential fraud can be detected during project monitoring process. The Managing Authority (through its dedicated units on management of irregularities) shall verify the reported cases for fraud indicators and shall report the cases to the relevant bodies responsible for fraud investigations.

- The National Authority may detect potential fraud. The National Authority (through its dedicated units on management of irregularities) shall verify the reported cases for fraud indicators and shall report the cases to the relevant bodies responsible for fraud investigations.

- Accordingly, potential fraud can be detected through the entire management process of a project, starting from assessment of application forms, implementation and monitoring process. The potential fraud can be detected by any person involved in the life cycle of a project. The reporting process of a potential fraud shall observe the Programme procedure dedicated to this aspect.

More exact measures for fraud detection are included in the fraud risk assessment tool which supports the risk assessment exercise.

In order to facilitate the detection process of fraud suspicions during the verification process, the staff of the Programme structures and the controllers (Romanian and Serbian FLC) shall participate at least 1 training related to fraud during the entire programme's implementation period. The trainings may take the form of online/in-person courses, trainings, transfer of know-how and experience etc.

Also, the Romanian and Serbian first level controllers can meet to discuss aspects and cases related to first level controls.

Appropriate measures will be in place for the reporting and monitoring cases of (suspected) fraud, conflicts of interest. Such reporting mechanism will ensure sufficient coordination between the Managing Authority, National Authority, Joint Secretariat (including JS Antenna) First level control and/or Audit Authority, relevant investigative authorities responsible for fraud investigations, including the electronic reporting via the Irregularity Management System (IMS), as set out in Annex XII CPR, where applicable.

The detection and reporting process of the suspicions of fraud is detailed in the Description of Management and Control System and the related procedures.

4. Investigation, criminal prosecution

Once a suspicion of fraud has been raised and correctly reported, the MA and NA must submit the case to the relevant investigative authorities responsible for fraud investigations.

5. Recovery of the prejudice on the Programme funds

The recovery of undue payments for operations which are the object to a legal proceedings shall be made according to the court decision/legal acts from Romania and Serbia.

Recovery of undue payments from project partners shall be made by MA in accordance with the related procedures and the provisions of the Financing Agreement for the Interreg IPA Romania-Serbia Programme.

Full cooperation with investigative, law enforcement or judicial authorities should be ensured by the Managing Authority.

6. Follow up and learning

Once a fraud investigation has been concluded by competent authorities the programme management structures shall conduct a review of the processes, procedures or controls connected to the potential or actual fraud. This should be objective and self-critical and should result in clear conclusions about perceived weaknesses and lessons learned, with clear actions, responsible individuals and deadlines. This should also feed into the subsequent review of the self-assessment, if needed.

II.   Financial resources and output indicators

All the activities related to the Antifraud Strategy implementation shall be ensured from the Technical Assistance budget. The budget shall be set up together with the planning of TA activities.

The following output indicators that shall be strictly monitored throughout the strategy implementation:

ID	Indicator	Measurement unit	Target value (2029) (optional)	Source of data

1	No of a self-assessment tool permanently updated	Number	1	Self-assessment tool
2	No of the online risks assessments consultations	Number	7	risks assessments consultations documents
3	EU information material/supporting training materials for preventing fraud, for the Programme staff and beneficiaries disseminated	Number	5	Documents
4.	No of the related trainings/technical meetings for the Programme staff	Number	5	Internal documents

III.   Monitoring and evaluation of the Strategy

The Monitoring and evaluation of the Strategy shall be performed by the Managing Authority, together with JS and NA. Information regarding the implementation of the Strategy shall be provided to the members of the Monitoring Committee on a regular basis.

Anti-fraud Strategy evaluation shall take place together with the Ro-Rs Programme evaluations, in order to improve the actions undertaken, to adopt any corrective measures and support.

In addition, the AfS can be revised following the proposal of the Managing Authority at any time during the implementation of the programme and will be subject to MC approval.

IV.   How to Report a Concern

There are a number of ways that individuals may raise a concern or report a suspected fraud; any reports received will be treated confidentially in accordance with the Programme structures internal working procedures.

The staff of the Programme structures are urged to consider the nature of the concern, whether it involves immediate management, and the seriousness and sensitivity of the issues involved. As soon as an employee becomes reasonably concerned about a matter, they are encouraged to raise this in the first instance with their line manager. All managers have a responsibility to act on concerns raised.

If, however, individuals are not comfortable raising concerns with their managers, they can use the whistleblowing instrument set up at Programme level.

Also, if any person, outside the Programme structures (applicants, project partners, contractors etc.) has any knowledge of a fraud suspicion related to the Programme, it is his responsibility to announce the management structures, by using the whistle-blower dedicated communication channel:

- For Romanian beneficiaries: sesizari.proiecte@mdlpa.ro

- For Serbian beneficiaries: nepravilnosti.cbc@mei.gov.rs

All the reported fraud suspicions received shall be treated according to the Programme internal working procedures and national legal provisions.