

# ANTI-FRAUD STRATEGY



## Interreg V-A Romania-Hungary Programme

*“Partnership for a better future”*

[www.interreg-rohu.eu](http://www.interreg-rohu.eu)

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## Abbreviations

<b>AS</b>	Antifraud Strategy
<b>AFCOS</b>	Anti-Fraud Coordination Service from Hungary
<b>CU</b>	Certifying Unit (within Managing Authority)
<b>DLAF</b>	The Fight Against Fraud Department from Romania
<b>FLC</b>	First level control
<b>JS</b>	Joint Secretariat
<b>MRDPA</b>	Ministry of Regional Development and Public Administration
<b>MA</b>	Managing Authority for Interreg V-A Romania-Hungary Programme
<b>MC</b>	Monitoring Committee
<b>NA</b>	Hungarian National Authority for Interreg V-A Romania-Hungary Programme
<b>NAI</b>	Romanian National Agency of Integrity
<b>NAD</b>	Romanian National Anticorruption Directorate
<b>OLAF</b>	European Anti-fraud Office
<b>RO-HU Programme</b>	Interreg V-A Romania-Hungary Programme

## PRINCIPLE

*Zero tolerance to fraud!*

## FOREWORD

The Anti-Fraud Strategy outlines the Interreg V-A Romania-Hungary 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 V-A Romania-Hungary 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, beneficiaries 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 (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002,
- Regulation (EC) no. 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006,
- Regulation (EU) No 1299/2013 Of The European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal,
- EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF\_14-0021-00.

Thus, according to Article 59(2) of the Financial Regulation, Member States shall take all necessary measures, including legislative, regulatory and administrative measures, to protect the EU's financial interests, namely by preventing, detecting and correcting irregularities and fraud.

Also, Article 72(h) of Regulation (EC) no. 1303/2013 states that the management and control systems shall provide for: the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest. In addition to this, Article 125(4)(c) of Regulation (EC) no. 1303/2013 lays down that the MA shall “put in place effective and proportionate anti-fraud measures taking into account the risks identified”.

## DEFINITIONS

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*<sup>1</sup> defines **fraud** affecting the European Communities' financial interests as<sup>2</sup>

(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 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.

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<sup>3</sup>.

## 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 detection;

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<sup>1</sup> <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

<sup>2</sup> *Ibidem*, Article 1

<sup>3</sup> EU Guide *Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures*, EGESIF\_14-0021-00

- 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 un-duly paid financial resources, according to the court decisions.

## I.2. Mission

The Anti-Fraud Strategy sets out clearly the Programme management structure 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:

- Minimise the opportunities for individuals to commit fraud and provide an effective response when fraud occurs;
- Raise awareness of the fraud risks and ensure that effective anti-fraud measures are in place;
- 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 V-A Romania-Hungary Programme (including certification function), namely the units within MRDPA which fulfil these tasks - constituted within the Romanian Ministry of Regional Development and Public Administration;
- **Joint Secretariat**;
- **National Authority** for Interreg V-A Romania-Hungary Programme - constituted within the Prime Minister's Office;
- **First level control** systems (Romania and Hungary);
- **Audit Authority** (including members in the Group of Auditors).

To these, the **applicants** and the **beneficiaries** 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:

- 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;
- Informing promptly and collaborate about investigations to competent investigation bodies when they occur according to its internal working procedures and national legal provisions;
- Reporting to European Commission (represented by OLAF) on fraud cases.

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.

The Certifying Unit, within the Managing Authority - has a system which ensures the proper verification of the information on each operation. CU receives adequate information from the Authorizing Unit on the procedures and verifications carried out in relation to expenditure, from the Payment and Accounting Directorate on its specific activities (accounting, payment and debts records) and may request from other units within MA specific information which is needed for fulfilling its tasks according with art. 126 of Regulation (EC) no. 1303/2013.

#### **Joint Secretariat**

The Joint Secretariat is responsible for:

- Participating in the regular review of the fraud risks at Programme level;
- Ensuring fraud awareness and training for its staff;
- Immediately informing the Managing Authority/National Authority about fraud suspicions;
- Ensuring that an adequate system of control exists at JS level;
- Preventing and detecting fraud at JS level and beneficiaries 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; proposing to the MA and NA correcting measures for beneficiaries; ensuring the implementation of the corrective measures at the beneficiaries' level, with the approval of MA.

#### **National Authority**

The National Authority is responsible for:

- 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 European Commission (represented by OLAF) on fraud cases;
- Referring promptly investigations to competent investigation bodies when they occur, according to its internal working procedures and national legal provisions;
- Ensuring that an adequate system of control exists at NA level;

- Ensuring fraud awareness and training for its staff;
- Taking corrective measures, as foreseen by the national legislation.

### First level control

The Romanian and Hungarian First Level Control are responsible for:

- Detecting fraud at beneficiaries level;
- Immediately reporting to the Managing Authority or National Authority and other responsible bodies, at national level, according to the provision of law, on fraud suspicions according to its internal working procedures.

### Audit Authority

The Audit Authority has a 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 check lists used by the Managing Authority, National Authority, Joint Secretariat, First level controllers (both Romanian and Hungarian). The provisions of working procedures are well known by the staff and implemented accordingly.

Also, this strategy make 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, according to their internal code of conduct (set up at MRDPA level, JS, FLC and NA).

In the same time, the applicants and the beneficiaries 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 to set a **self-assessment team**, responsible with carrying out the fraud assessment risks at programme level. The structure of this team includes<sup>4</sup> representatives of Managing Authority, National Authority, Joint Secretariat, Romanian and Hungarian First level control. These representatives have different responsibilities, including project evaluation, desk and on the spot verification and authorisation of payments, public procurement. The NA representative and Hungarian First level control (in case not attending the meeting) will be permanently informed on the work of the assessment team and consulted on all the documents.

Also, the representatives of internal audit or AA are invited to participate as observer.

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

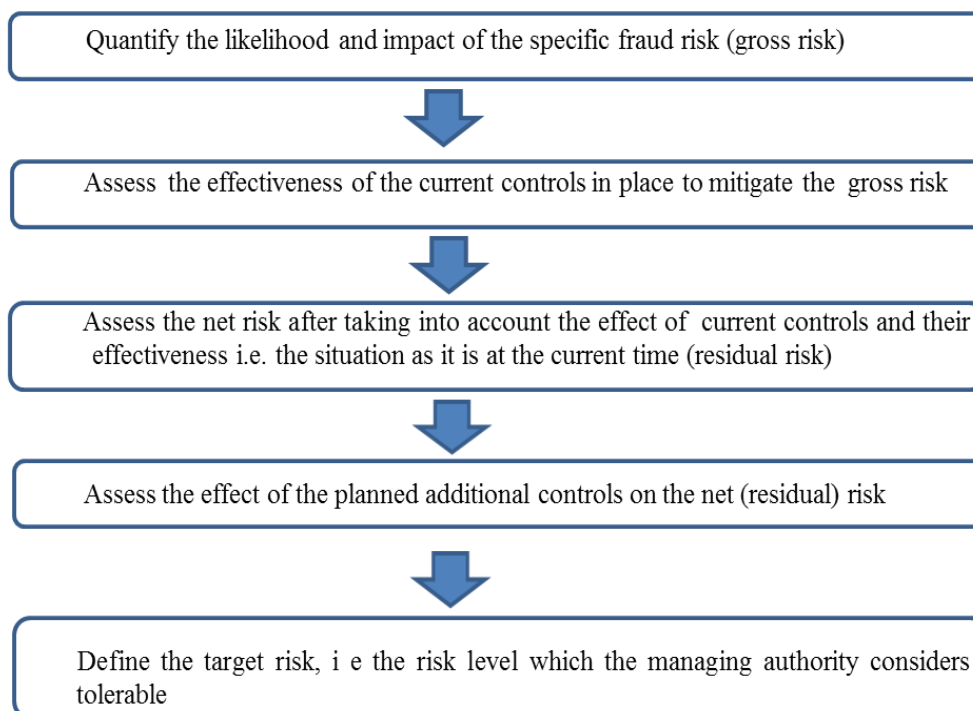
- projects evaluation and selection;
- implementation of the projects by the beneficiaries, focusing on public procurement and labour costs;
- certification of expenditures by the MA and payments;
- public procurements of the technical assistance beneficiaries.

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

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<sup>4</sup> The structure observe the provisions provided by the EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF\_14-0021-00

<sup>5</sup> Please see the self-assessment tool, annex 1, EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF\_14-0021-00



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. 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 shall be monitored and evaluated on a biannual basis.

The self-assessment team shall meet on an annually basis, preferably in January (and on request when needed).

### 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 (e.g. Romanian National Agency for Integrity, Romanian Fight Against Fraud Department, Romanian National Anticorruption Directorate, OLAF, Hungarian AFCOS Directorate etc.). This may involve the exchange of information with other institutions and data, according to related protocols.

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

- Develop a set of rules at Programme level for the beneficiaries (ex. Program General Rules of Eligibility of Expenditures) to the applicant guide that shall be used also during project implementation, guideline for beneficiaries with antifraud measures, etc.);
- Organize seminars and trainings for the staff, but also for the members of Monitoring Committee and beneficiaries;
- Drafting information material/supporting documents for preventing fraud at beneficiaries' level.

#### **4. 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:

- The first level controllers use during the expenditures verifications specific checklists that may detect potential fraud indicators<sup>6</sup>. According to the internal procedures, FLC shall immediately inform the Managing Authority and National Authority (if the beneficiary is Hungarian) and other relevant national bodies (according to the legislation in force) about a potential fraud. The Managing Authority (through its dedicated units on management of irregularities) and the National Authority shall verify the reported cases for fraud indicators and shall report the cases to the national bodies responsible for fraud investigations.
- The Joint Secretariat may detect suspicions fraud during the reimbursement claims, administrative verifications and also during the project monitoring process, including on-the-spot visits. If suspicions fraud cases are identified, the JS shall inform the MA if the beneficiary is Romanian or MA and NA if beneficiary nationality is Hungarian. The MA and NA shall verify the reported cases for fraud indicators and shall report the cases to the national bodies responsible for fraud investigations, according to their internal procedures.

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<sup>6</sup> Romanian First level control and Hugarian First level control verifies 100% all the expenditures, including supporting documents.

- The Managing Authority uses procedures and dedicated tools for detecting potential fraud. For automatically detecting fraud we will decide to use one or more software systems like: Keep 2.0 (is the only source of aggregated information regarding the projects and beneficiaries of EU programmes dedicated to cross-border, transnational and interregional cooperation in Europe: Interreg, IPA CBC and ENPI CBC); Prevent (Romanian system for detecting Conflicts of interest in Public Acquisitions); ARACHNE (a data mining tool that highlight the risk of fraud, conflict of interest and irregularities). A decision regarding the software system or the package of software systems that will be used for fraud detection, will be taken after a consultation between MA and NA. Also, potential fraud can be detected during project monitoring process. The suspicions cases shall be reported to NAI or DLAF (or NAD) via the MA dedicated units on management of irregularities. If the beneficiary is Hungarian the MA shall inform the NA.
- The National Authority may detect potential fraud during its verification. According to NA internal procedure, these cases shall be reported to the national institutions responsible with the fraud investigation (e.g. AFCOS Directorate) and to the MA.

Accordingly, potential fraud can be detected through the entire management process of a project, starting from application, implementation, authorization, certification and monitoring process. The potential fraud can be detected by every 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.

## **5. Investigation, criminal prosecution**

Once a suspicion of fraud has been raised and correctly reported, the MA and NA must submit the case to the competent authority in the Romania and Hungary for investigation and sanctions, including and inform OLAF accordingly.

## **6. Recovery of the prejudice on the Programme funds**

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

Recovery of undue payments from beneficiaries shall be made by MA and NA (according to the provisions of the Memorandum of Implementation - arrangements between MS participating in the Interreg V-A Romania-Hungary Programme).

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

## **7. Follow up and learning**

Once a fraud investigation has been concluded by national 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.

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

ID	Indicator	Measurement unit	Target value (2023) (optional)	Source of data
1	No of a self-assessment tool permanently updated	Number	1	Self-assessment tool
2	No of the assessment team meetings	Number	7	Minutes, reports
3	No of documents/information material regarding fraud, for the Programme staff and beneficiaries	Number	2	Documents
4	No of awareness events for Programme staff and beneficiaries	Number	5	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-HU Programme evaluations, in order to improve the actions undertaken, to adopt any corrective measures and support.

In addition, the AS can be evaluated and 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 or irregularity; 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, beneficiaries, contractors etc.) has any knowledge of an irregularity or a fraud suspicion related to the Programme, it is his responsibility to announce the management structures, by using the whistle blower:

- For Romanian beneficiaries: [antifraudaROHU@mdrap.ro](mailto:antifraudaROHU@mdrap.ro)
- For Hungarian beneficiaries: [bela.laszlo.racz@me.gov.hu](mailto:bela.laszlo.racz@me.gov.hu)

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