

**ANTI-FRAUD STRATEGY
INTERREG-IPA CBC PROGRAMMES
2014-2020
BULGARIA – SERBIA
BULGARIA – THE FORMER YUGOSLAV
REPUBLIC OF MACEDONIA
BULGARIA – TURKEY**

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PRINCIPLE

Zero tolerance to fraud!

FOREWORD

The Anti-Fraud Strategy, hereinafter referred to as the Strategy, outlines the Interreg - IPA CBC Programmes 2014-2020 managed by the Ministry of Regional Development and Public Works (Bulgaria – Serbia, Bulgaria – the former Yugoslav Republic of Macedonia and Bulgaria – Turkey) commitment to minimise the risk of loss of funds at the programme level resulting from fraud and corruption originating both internally and externally.

The management structures of the Interreg - IPA CBC Programmes are committed to maintain high legal, ethical and moral standards, to adhere to the principles of integrity, objectivity and honesty and wishes to be considered as being 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 programmes, beneficiaries and contractors shall be fair and honest and, if able to do so, shall provide help, information and support to assist the investigation of fraud and corruption.

LEGAL BASIS

The 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,
- Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II),
- Commission Implementing Regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance (IPA II) - IPA II Implementing Regulation;
- Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes;
- EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF 14-0021-00.

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

Also, Article 72 (h) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council 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 (EU) 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*¹ defines **fraud** affecting the European Communities' financial interests as

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

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

- 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.

I. GENERAL CONSIDERATIONS

Our aim is to minimise 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 programme level;
- promote fraud detection in all levels of programme management;
- 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.

In support to the Strategy, the following objectives have been set:

- To minimize the opportunities for individuals to commit fraud and provide an effective response when fraud occurs.
- To raise awareness of the potential for fraud and ensure that effective anti-fraud measures are in place.

- To conduct risk analysis on fraud and identify high risks in all areas 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 programme management (Programmes' managing structures) need to work in collaboration to prevent and detect fraudulent behaviour.

The actors involved within Anti-fraud strategy are:

- **Managing Authority**, namely "Territorial Cooperation Management" Directorate General within the Ministry of Regional Development and Public Works;
- **Joint Secretariats** in Sofia, Kyustendil and Haskovo and respective antenna offices;
- **National Authorities** in Serbia, the former Yugoslav Republic of Macedonia and Turkey;
- **First-level control systems** (operated in Bulgaria and partnering countries);
- **Certifying Authority** – "National Fund" Directorate at the Ministry of Finance of the Republic of Bulgaria;
- **Audit Authority** – "Audit of EU Funds" Executive Agency, a second-level spending unit to the Minister of Finance of Republic of Bulgaria.

To these, the **applicants** and the **beneficiaries** may be added as they having an important role in the Programme implementation.

Responsibilities

Managing Authority

At the Programmes 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;
- Ensuring fraud awareness of staff and beneficiaries and training of staff;
- Referring promptly investigations to competent investigation bodies when they occur in accordance with 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.

Joint Secretariats (including antenna offices)

The Joint Secretariats are responsible for:

- Participating in the regular review of the fraud risks at programme level;
- Immediately informing the Managing Authority on 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 project level;
- Taking corrective measures as foreseen by the relevant legislation.

National Authorities

The National Authorities are responsible for:

- Ensuring fraud awareness and training for its staff;
- Preventing, detecting, correcting and reporting the irregularities committed by beneficiaries from the (respective country) and informing the MA about any irregularities discovered or presumed to have happened on its territory;
- Reporting to European Commission (represented by OLAF) on fraud cases;
- Referring promptly investigations to competent investigation bodies when they occur, in accordance with their 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 First-Level Control is responsible for:

- Detecting fraud at beneficiaries level,

- Immediately reporting to the Managing Authority or respective National Authority and other responsible bodies, at national level, in accordance with the provision of law, on fraud suspicious in accordance with its internal working procedures.

Certifying Authority and Audit Authority

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

The Strategy has the following steps which collectively are designed to provide a holistic programme to fight fraud:

1. Strategy and ethical culture
2. Fraud risk management
3. Prevention
4. Detection
5. Investigation, criminal prosecution
6. Recovery of the prejudice on 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 Authorities, Joint Secretariats, First-Level

Controllers. The provisions of working procedures are included in the Programme Manual and should be well known by the staff, and implemented accordingly.

Also, this strategy make it clear to the staff of the programmes management bodies the high standards and behaviour expected to support the development of a sound ethical culture, in accordance with their internal code of conduct.

At 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 programmes 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 in accordance with the programmes' procedure on *Fraud assessment risk*. Thus, fraud risks will be considered and evaluated with appropriate mitigation measures taken to reduce the likelihood of fraud occurring.

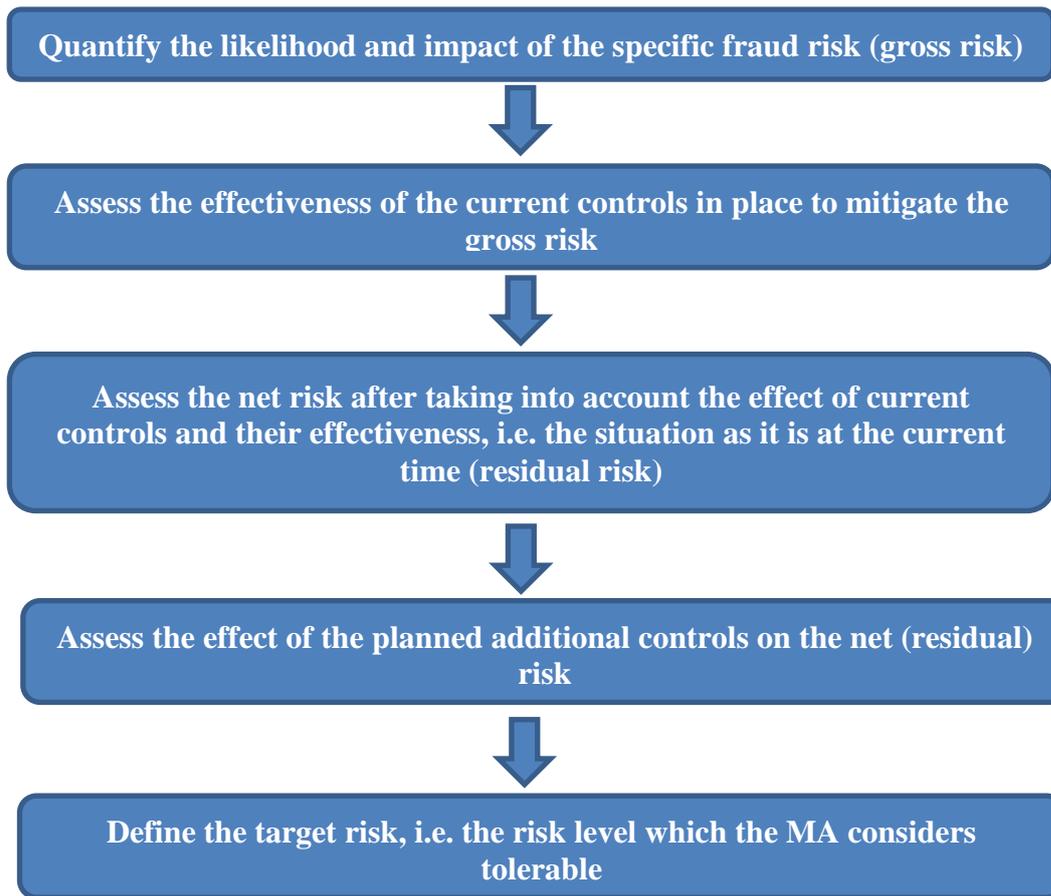
The Programmes management structures have set a self-assessment team, responsible for carrying out the fraud assessment risks at programme level. In accordance with elaborated procedure, a self-assessment team is set-up at MA level (including experts from different departments and Joint Secretariats), so that the fraud risks and identification and monitoring of proportionate measures is done in the most accurate and efficient way. The members in self-assessment team are selected so as to include representatives from positions tacked by Fraud Assessment Tool, namely: applicant selection, certification and payment, implementation and verification, certification and payment and technical assistance beneficiaries.

The self-assessment team shall use in its work the self-assessment tool provided by the EC² 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;
- certification of costs by the MA and payments;
- public procurement procedures carried out by beneficiaries under “Technical assistance” Priority axes.

The methodology for this fraud risk assessment has **five main steps**³:

² 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 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.

³ EU Guide Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, EGESIF 14-0021-00, page 9

The action plan shall be monitored and evaluated on a biannual basis.

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

3. 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 – included in the Programme Manual;
- effective communication and supervision and review;
- appropriate training;
- maintaining an effective internal control framework.

The staff of 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. AFCOS Directorate, OLAF, etc.). This may involve the exchange of information with other institutions and data, in accordance with related protocols.

Also, in this regard, programme management structures shall:

- Develop a set of rules at programme level for the beneficiaries (Guidelines for beneficiaries with antifraud measures, etc.)
- Organise seminars and trainings for the staff and beneficiaries
- Draft information material / supporting documents for preventing fraud at beneficiaries' level.

4. Detection and reporting

Fraud prevention techniques and measures may not stop all potential perpetrators and the early detection of fraud within the programmes reduces the detrimental impact and demonstrates a

commitment to tackling fraud. So, the programme management structures developed systems, including internal working procedures that detect behaviour in a timely manner, namely:

- The first level controllers use verifications checklists, which helps in detecting potential fraud indicators. In accordance with the internal procedures, FLC shall immediately inform the Managing Authority or the respective National Authority and other relevant national bodies (in accordance with the stipulations of the relevant legislation enforced) on a potential fraud. The Managing Authority through its dedicated units on management of irregularities and the National Authorities shall verify the reported cases for fraud indicators and shall report the cases to the national bodies responsible for fraud investigations.
- The Joint Secretariats may detect suspicious fraud during the monitoring process, including documental check and on-the-spot visits. If suspicious fraud cases are identified, the JS experts shall inform the MA and NAs, depending on nationality of the beneficiary in question. The MA and NAs shall verify the reported cases for fraud indicators and shall report the cases to the national bodies responsible for fraud investigations, in accordance with their internal procedures.
- The National Authorities may detect potential fraud. In accordance with NA internal procedure, these cases shall be reported to the national bodies responsible for the fraud investigation.

Accordingly, potential fraud can be detected through the entire management process of a project, starting from application, implementation and authorisation and certification of reimbursement claims. 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 respective NA must submit the case to the competent authority on their territories for investigation and sanctions, including submitting the information to OLAF.

6. Recovery of the prejudice on the programme funds

The recovery of undue payments shall be made according to the court decision / legal acts.

Recovery of undue payments from beneficiaries shall be made by MA and NA (in accordance with the provisions of the Memorandum of Understanding – signed under the respective 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 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 persons and deadlines. This should also feed into the subsequent review of the self-assessment.

III. Output indicators

The following output indicators that shall be strictly monitored throughout the Strategy implementation.

ID	Indicator	Measurement unit	Target value (2023) (optional)	Source of data
1	Self-assessment tools permanently updated	Number	1	Self-assessment tool
2	Size of evaluation team	Number	7	Order
3	Documents / information material regarding fraud, for the Programme staff and beneficiaries	Number	3	Reports, Documents

IV. Monitoring and evaluation of the Strategy

The monitoring and evaluation of the Strategy shall be performed by the Managing Authority, together with the anti-fraud assessment team.

V. 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 programme structures internal working procedures.

The staff of programme structures are urged to consider the nature of the concern, whether it involves immediate handling, and the seriousness and sensitivity of the issues involved.

Also, if any person, outside programme structures (applicants, beneficiaries, partners, contractors, stakeholders, the general public, etc.) has any knowledge of an irregularity or a fraud suspicion related to the programmes, it is his / her responsibility to make the management structures aware by using the whistleblower:

- For Bulgarian beneficiaries: Via platform on the programme website or via email to: MKrasteva@mrrb.government.bg
- For Turkish beneficiaries: ftoprak@ab.gov.tr
- For Macedonian beneficiaries: brankicar@yahoo.com
- For Serbian beneficiaries: bslijepcevic@seio.gov.rs

All the reported irregularities or fraud suspicions shall be treated in accordance with the programmes' internal working procedures and the provisions of national legislation.