Remaining issues:
preventing fraud & corruption in eligibility of expenditure 2014-2020

Marco Lopriore, Expert EIPA
Eligibility of expenditure and prevention of fraud

- Thresholds for cash payments
- In-kind contributions for volunteer work
- Rules for second hand equipments
- Strong time account systems (double funding)
- Inflation of staff costs
- Using SCO
- False SME definitions
- Plagiairism of work
Irregular insolvencies or fraudulent bankruptcies -
Durability for infrastructures or productive investments

<table>
<thead>
<tr>
<th>2014-2020 (art 71 CPR 1303/2013)</th>
<th>2021-2027 (art 59 new CPR)</th>
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<tbody>
<tr>
<td>An <em>operation</em> shall repay.....if within 5 years of final payment or within period set by SA rules (3 years for SME)</td>
<td>Idem but the <em>MS</em> shall repay</td>
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<td>Cessation or relocation outside programme area, change ownership, or substantial change</td>
<td>Cessation or transfer...</td>
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<tr>
<td>Proportional recovery</td>
<td>DROPPED</td>
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<td>10 years if relocation outside EU</td>
<td>DROPPED</td>
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<tr>
<td>ESF and other ESI funds operations which are not productive investment or infrastructures repay only if breach of SA rules and if cessation or relocation</td>
<td>ESF + operations repays the ESF+ only if breach of SA rules</td>
</tr>
<tr>
<td>Exemption for non fraudulent bankruptcy and financial instruments (and for EGAF)</td>
<td>FI and EGAF DROPPED</td>
</tr>
</tbody>
</table>
Guidance note on VAT eligibility
SWD (2018) 459 final

- Prevent « National, regional and local setup with the exclusive purpose to render VAT eligible to EU co-financing »
- Prevention of abusive practices in Compensation schemes outside VAT legislation for VAT paid by municipalities on their purchases
II.24.5 In accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspection carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office, the European Anti-Fraud Office may carry out investigations, including on the spot checks and inspections, to establish whether there has been fraud, corruption or any other illegal activity under the contract affecting the financial interests of the Union. Findings arising from an investigation may lead to criminal prosecution under national law.

The investigations may be carried out at any moment during the provision of the services and up to five years starting from the payment of the balance of the last specific contract issued under this FWC.
Conflicts of interest – contractual provisions

II.7. CONFLICT OF INTEREST AND PROFESSIONAL CONFLICTING INTERESTS

II.7.1 The contractor must take all the necessary measures to prevent any situation of conflict of interest or professional conflicting interest.

II.7.2 The contractor must notify the contracting authority in writing as soon as possible of any situation that could constitute a conflict of interest or a professional conflicting interest during the implementation of the FWC. The contractor must immediately take action to rectify the situation.

The contracting authority may do any of the following:

(a) verify that the contractor’s action is appropriate;
(b) require the contractor to take further action within a specified deadline;
(c) decide not to award a specific contract to the contractor.

II.7.3 The contractor must pass on all the relevant obligations in writing to:

(a) its personnel;
(b) any natural person with the power to represent it or take decisions on its behalf;

(c) third parties involved in the implementation of the FWC, including subcontractors.

The contractor must also ensure that the persons referred to above are not placed in a situation which could give rise to conflicts of interest.
Example of prominent anti-fraud statements

Fraud fight statement

September 2016

The City of Vienna, acting as Managing Authority of the Interreg CENTRAL EUROPE Programme, is – according to its administrative capacity – committed to protect the EU and public funds entrusted against fraud and corruption.

The term fraud is commonly used to describe a wide range of misconducts including theft, corruption, embezzlement, bribery, forgery, misrepresentation, collusion, money laundering and concealment of material facts. It often involves the use of deception to make a personal gain for oneself, a connected person or a third party, or a loss for another – intention is the key element that distinguishes fraud from irregularity.
Legal references

- Art 61 on „Conflict of interests“ in Omnibus Regulation 1046/2018 and Art 57.2 of Financial Regulation 966/2012
- EC Communication on new requirements against tax avoidance in EU legislation governing in particular financing and investment operations, COM (2018) 1756 final
- EU Directive on Anti-money laundering 2015/849
- EC Communication on a new European approach to business failure and insolvency, COM (2012) 742 final

CONTACT: m.lopriore@eipa.eu