

Interreg Knowledge Fair

# Irregularities and fraud Preventive than reactive

Przemyslaw Kniaziuk, Florin Neculcea | Interact programme | 07.03.2024

**Interact**



Co-funded by  
the European Union  
Interreg

# Welcome to the Interreg Knowledge Fair

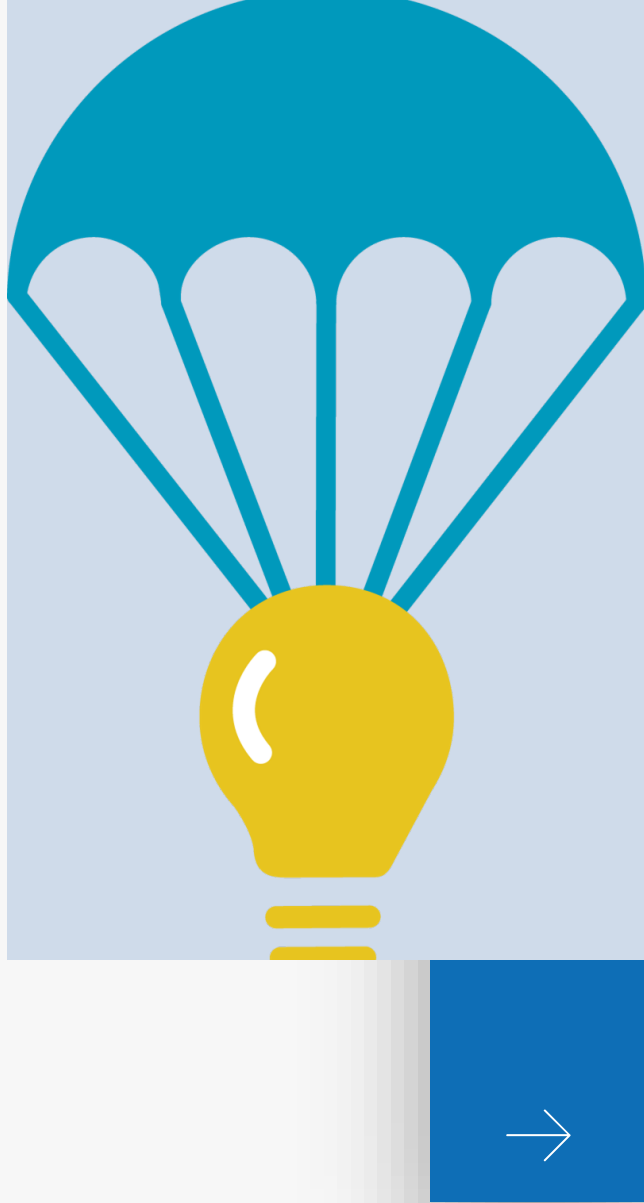
This is the **second edition** of the Interreg Knowledge Fair, it is still a new approach for us.

The **Conference Support** stand in the Exhibition Room is a one-stop shop for your questions.

At the end of this session, you are asked to rate the **session experience**.

At the end of the event, you will be asked your **overall feedback**.





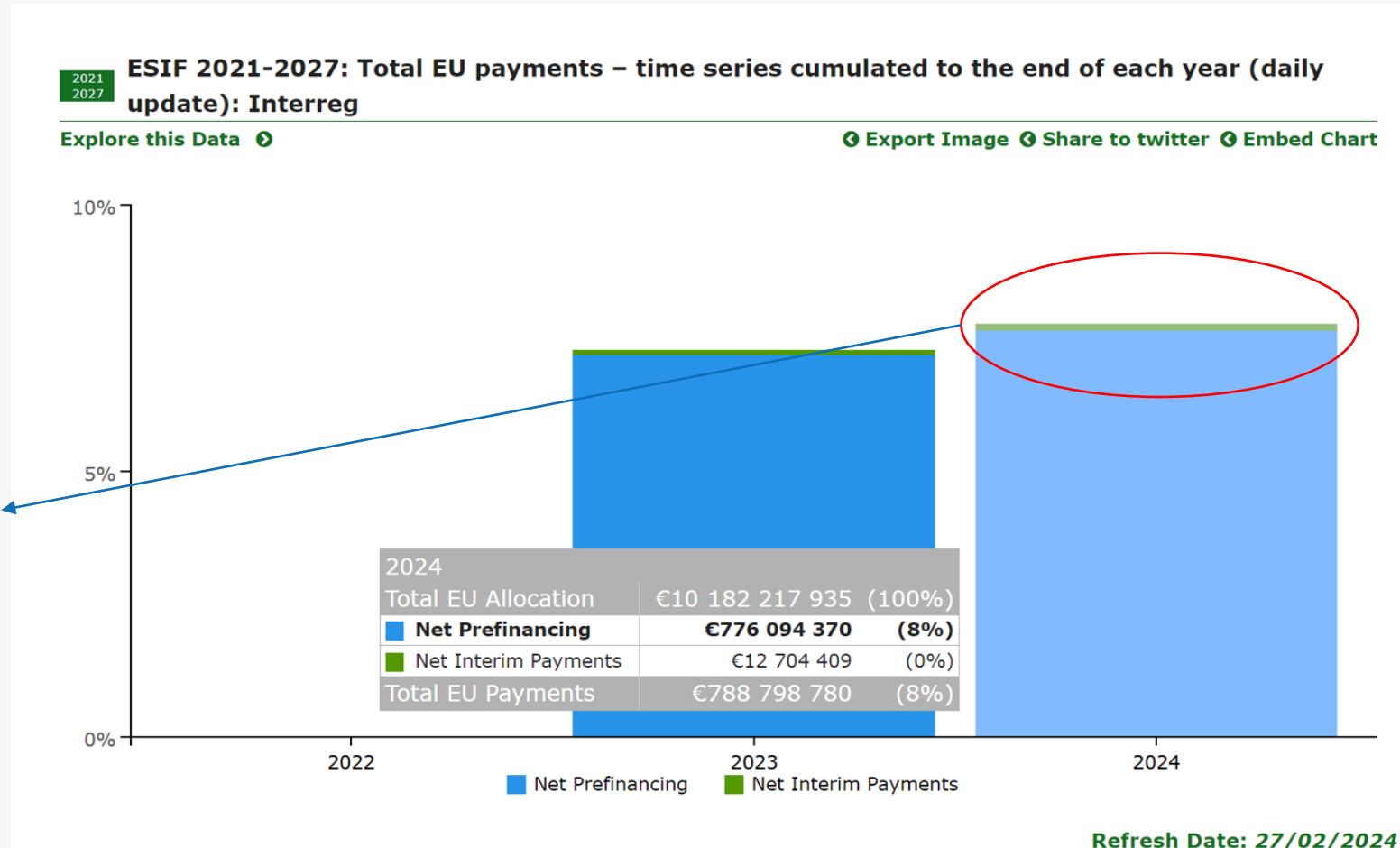
# Objective of the workshop

- ✓ Explore effective and proportionate approaches to **anti-fraud** and measures to detect, correct and report **irregularities** correctly

# Total EU payments

Net Prefinancing: 7,6 %  
 Net Interim Payments: 0,1%

No irregularities yet!



# Most common types of irregularities in Interreg (ACRs)

Category	2021-2022	2020-2021	2019-2020	2018-2019
Public Procurement	19.29%	19,90%	21,9%	14,1%
State aid	0.51%	0,59%	0,2 %	0,5%
Missing supporting information or documentation	19.67%	18,42%	17,3%	22,4%
Accounting and calculation errors at project level	12.18%	13,00%	11,3%	13,7%
Ineligible project/Ineligible expenditure	38.45%	42,66%	43,3%	43,3%
Sound financial management	4.31%	3,84%	3,3%	2,4%
Other categories	5.58%	1,58%	2,7%	3,6%

# Financial impact of irregularities in Interreg (ACRs)

Category	2021-2022	2020-2021	2019-2020	2018-2019
Public Procurement	42.20%	47,49%	67,9%	26,0%
State aid	0.00%	0,02%	0,0%	0,0%
Missing supporting information or documentation	3.64%	9,65%	2,2%	19,1%
Accounting and calculation errors at project level	7.52%	1,58%	5,6%	14,1%
Ineligible project/Ineligible expenditure	42.69%	40,76%	23,3%	39,2%
Sound financial management	2.58%	0,40%	0,1%	0,1%
Other categories	1.37%	0,10%	0,9%	1,5%

# Audit findings explained, lessons learned

CPRE\_22-0016-00  
16/11/2022

7TH MEETING OF THE EXPERT GROUP ON THE CPR FUNDS (CPR EXPERT GROUP)  
ONLINE MEETING – 29 NOVEMBER 2022 (10:00 – 13H00)  
WORKSHOP STATE AID –  
COMMISSION'S AUDIT FINDINGS, LESSONS LEARNED, GOOD PRACTICES

SPEAKER	REGIO-DAC.7
---------	-------------

Table of Contents

- LEGAL BASIS ..... 2
- 1. DE MINIMIS THRESHOLD ..... 2
  - Finding 1.1 Insufficient audit work on GBER and de minimis ..... 2
  - Finding 1.2 De minimis threshold exceeded, no Gross Grant Equivalent ..... 3
  - Finding 1.3 De minimis ceiling at the level of "single undertaking" ..... 4
- 2. AID INTENSITY ..... 4
  - Finding 2.1 Lack of justification to increase the State aid intensity ..... 4
- 3. INCENTIVE EFFECT ..... 5
  - Finding 3.1 Ineligible project, no incentive effect ..... 5
- 4. OTHER FINDINGS ..... 5
  - Finding 4.1 Various State aid issues ..... 5
  - Finding 4.2 No AA review of potential State aid issues ..... 6
  - Finding 4.3 Project not compatible with State Aid rules ..... 7
  - Finding 4.4 Beneficiary not a research organisation ..... 7

**DISCLAIMER**

*This working document was prepared by/expresses the view of the Joint Audit Directorate for Cohesion (DAC) and does not commit the European Commission. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.*

1

CPRE\_22-0017-00  
16/11/2022

7TH MEETING OF THE EXPERT GROUP ON THE CPR FUNDS (CPR EXPERT GROUP)  
ONLINE MEETING – 29 NOVEMBER 2022 (10:00 – 13H00)  
WORKSHOP PUBLIC PROCUREMENT –  
COMMISSION'S AUDIT FINDINGS, LESSONS LEARNED, GOOD PRACTICES

SPEAKER	REGIO-DAC.2
---------	-------------

Table of Contents

- LEGAL BASIS ..... 2
- 1. TENDER NOTICE AND TENDER SPECIFICATIONS ..... 2
  - Finding 1.1 Award criteria not fully transparent ..... 2
  - Finding 1.2 Inadequate description for scoring of a selection criterion ..... 3
  - Finding 1.3 Breach of national public procurement rules ..... 3
  - Finding 1.4 Disproportionate selection criteria ..... 3
  - Finding 1.5 Artificial splitting of service contracts ..... 5
  - Finding 1.6 Limitations of sub-contracting ..... 6
- 2. SELECTION OF BIDDERS AND EVALUATION OF TENDERS ..... 6
  - Finding 2.1 Award decision before completion of the evaluation ..... 7
  - Finding 2.2 Non-compliance of winning tender with selection criteria ..... 7
  - Finding 2.3 Incorrect acceptance of a tender ..... 8
  - Finding 2.4 Lack of equal treatment during evaluation ..... 8
  - Finding 2.5 Bidder excluded due to non-compliance with selection criteria ..... 9
  - Finding 2.6 Incorrect acceptance of the winning tenderer ..... 10
- 3. CONTRACT IMPLEMENTATION ..... 11
  - Finding 3.1 Substantial modification of contract terms ..... 11
  - Finding 3.2 Modification of the terms not compliant ..... 12
  - Finding 3.3 Substantial modification of contract elements ..... 12
  - Finding 3.4 Modification of an essential contract element ..... 13

**DISCLAIMER**

*This working document was prepared by/expresses the view of the Joint Audit Directorate for Cohesion (DAC) and does not commit the European Commission. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.*

1

CPRE\_22-0018-00  
16/11/2022

7TH MEETING OF THE EXPERT GROUP ON THE CPR FUNDS (CPR EXPERT GROUP)  
ONLINE MEETING – 29 NOVEMBER 2022 (10:00 – 13H00)  
WORKSHOP CONFLICTS OF INTEREST –  
COMMISSION'S AUDIT FINDINGS, LESSONS LEARNED, GOOD PRACTICES

SPEAKER	REGIO-ASSISTANT TO DAC DIRECTOR
---------	---------------------------------

Table of Contents

- LEGAL BASIS ..... 2
- 1. CONFLICT OF INTEREST – OVERALL ENVIRONMENT ..... 2
  - Finding 1.1 No systematic Risk Analysis ..... 2
  - Finding 1.2 Insufficient Prevention and Detection mechanism ..... 2
  - Finding 1.3 Incomplete and diverge system of controls ..... 3
- 2. CONFLICT OF INTEREST - REPORTING ..... 3
  - Finding 2.1 Not straightforward process on reporting of conflict of interest ..... 3
  - Finding 2.2 No proper reporting on ancillary employment ..... 3
- 3. CONFLICT OF INTEREST – PUBLIC PROCUREMENT ISSUES ..... 3
  - Finding 3.1 Relatively high level of rejection of bidders ..... 3

**DISCLAIMER**

*This working document was prepared by/expresses the view of the Joint Audit Directorate for Cohesion (DAC) and does not commit the European Commission. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.*

1

# Irregularities in 2021-2027

**Irregularity** means any breach of applicable law, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the budget of the Union by charging unjustified expenditure to that budget;

**Established irregularity** when the costs have been claimed in the payment application to the EC

**Annex XII to CPR** + Handbook on requirement to report irregularities, COCOLAF/23-05-17/8.2/EN  
before Delegated Regulations 2015/1970 and 2015/1974





# Irregularities in 2021-2027

## Detailed rules for the reporting of irregularities

Report irregularities within two months following the end of each quarter from their detection or as soon as additional information on the reported irregularities becomes available.

## Template for electronic reporting via the Irregularity Management System (IMS)

IMS access usually coordinated by national Anti-Fraud Coordination Service (AFCOS)

IMS used in 35 countries (EU+candidate)

Non fraudulent / fraudulent irregularities



# Irregularities in 2021-2027

## Who reports?

The Member State in which the irregular expenditure is incurred by the beneficiary and paid in implementing the operation shall be responsible for reporting

For programmes under the European territorial cooperation goal (Interreg), the reporting Member State shall inform the managing authority and the audit authority of the programme.

# Irregularities in 2021-2027

## Irregularities to be reported

1. have been the subject of a first written assessment by a competent authority, either administrative or judicial
2. give rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of fraud or other criminal offences (suspected fraud)
3. preceding a bankruptcy;
4. for which the Commission submits a written request for information to the Member State following the initial reporting from a Member State

# Irregularities in 2021-2027

## Irregularities not to be reported

1. for an amount lower than EUR 10 000 in contribution from the Funds, BUT if interlinked and total amount > EUR 10 000 have to be reported
2. Consist solely of failure to execute an operation included in the co-financed programme owing to the non-fraudulent bankruptcy
3. cases reported to MA / BAF by the beneficiary voluntarily and before detection by either authority, whether before or after the payment of the public contribution, BUT suspected fraud YES
4. cases which are detected and corrected by the managing authority before inclusion in a payment application submitted to the Commission, BUT suspected fraud YES

# Withdrawals and deductions in 2021-2027

**Withdrawals** financial corrections for irregular expenditure corrected (withdrawn) in the next payment application

**Deductions** financial corrections for irregular expenditure corrected (deducted) in the accounts



# Updated typology of findings in 2021-2027

Types of findings 2021 - 2027									
Ref.	Category	Ref.	Sub-Category	Comments [min 3000 characters]	Cases of suspected fraud	Cases of Gold-plating	Frequency (number of cases)	Amount of the irregularities (in total costs and €)	
1	Public Procurement - Contract notice and tender specifications	1.1	Lack of publication of contract notice or unjustified direct award (i.e. unlawful negotiated procedure without prior publication of a contract notice)						
		1.2	Artificial splitting of works/services/supplies contracts.						
		1.3	Non-compliance with - time limits for receipt of tenders; or - time limits for receipt of requests to participate; Or Failure to extend time limits for receipt of tenders where significant changes are made to the procurement documents.						
		1.4	Insufficient time for potential tenderers/candidates to obtain tender documentation; Or Restrictions to obtain tender documentation.						
		1.5	Lack of publication of extended time limits for receipt of tenders; Or Failure to extend time limits for receipt of tenders.						
		1.6	Cases not justifying the use of a competitive procedure with negotiation or competitive dialog. Failure to publish in the contract notice the selection and/or award criteria (and their weighting); or conditions for performance of contracts or technical specifications; Or Failure to describe in sufficient detail the award criteria and their weighting; Or Failure to communicate/publish clarifications/additional information.						
		1.7	Use of - criteria for exclusion, selection, award; or - conditions for performance of contracts or; - technical specifications that are discriminatory on the basis of unjustified national, regional or local preferences.						
		1.9	Use of - criteria for exclusion, selection, award; or - conditions for performance of contracts; or - technical specifications that are not discriminatory in the sense of the previous type of irregularity (i.e. illegal, disproportionate) but still restrict access for economic operators.						
		1.10	Insufficient or imprecise definition of the subject-matter of the contract.						
		1.11	Lack of justification for not subdividing contract into lots.						
		1.12	Non-compliance with the procedure established in the Directive for electronic and aggregated procurement.						
		1.13	Unjustified limitation of subcontracting.						
		1.14	Selection criteria (or technical specifications) were modified after opening of tenders or were incorrectly applied.						
	1.15	Evaluation of tenders using award criteria that are different from the ones stated in the contract notice or tender specifications; Or Evaluation using additional award criteria that were not published.							
	1.16	Negotiation during the award procedure including modification of the winning tender during evaluation.							
	1.17	Competitive procedure with negotiation, with substantial modification of the conditions set out in the contract notice or tender specifications.							
	1.18	Unjustified rejection of abnormally low tenders.							
	1.19	Conflict of interest with impact on the outcome of the procurement procedure.							
	1.20	Irregular prior involvement of candidates/tenderers towards the contracting authority.							
	1.21	Insufficient audit trail for the award of the contract.							
	1.22	Bid-rigging (i.e. identified by a competition / anti-cartel office).							
	1.23	Modifications of the contract elements set out in the contract notice or tender specifications, not in compliance with the Directive.							
	1.24	Procurement - Requirements in national legal frameworks	1.24	Non-compliance with the national rules on procurement carried out by entities other than Contracting Authorities.					

Implemented in Jems

# Data-mining tools

## Update of Financial Regulation

Arachne: obligation to provide data, not using it

EDES: get access in the first place



# Effective implementation of proportionate anti-fraud measures

## Key Requirement 7

7.1. Timely and regularly updated fraud risk assessment

7.2 Measures and procedures to prevent conflict of interest

7.3 Prevention, detection and correction of irregularities including cases of (suspected) fraud

Identification of 'red flags' and fraud indicators - Appropriate measures are in place and function effectively

7.4 Reporting and monitoring of irregularities, cases of (suspected) fraud, including conflicts of interest;

Fraud suspicion communicated to criminal investigative bodies.





# Group discussion

## What / How

Data mining tools and databases  
Detecting, Reporting, Preventing



# Proactive than reactive

**Proactive** administrative verifications/checks, requesting, collection and verification of information/documents, evaluation of the information

**Reactive** financial, establish irregularity/fraud, corrective measures



# Thank you for being here!

Your opinion matters to us.

Please take a few minutes to provide us with feedback to help us improve our services.

Log into the **Whova app** and tell us what you think in the **session Q&A, from 1 (bad) to 5 (amazing)**  
Please check which session you are in!

You can also talk to us at the Conference Support stand in the networking area.



# Cooperation works

All materials will be available on:

[Interact / Events / Interreg Knowledge Fair \(5-7 March 2024\)](#)