Ministerul Dezvoltării, Lucrărilor Publice și Administrației

 *Unauthorized translation*

**Instruction No. 1/02.06.2025**

**To:** **Private beneficiaries of Interreg programs for which Romania fulfills the role of National Authority**

**Topic: Clarification regarding the application of the provisions of national and European legislation in order to avoid situations of conflicts of interest**

In order to avoid situations generating potential conflicts of interest, the National Authority makes the following clarifications regarding the provisions of national and European legislation:

* Article 10 and Article 11, paragraph 4 of the Emergency Ordinance no. 66/2011 with subsequent amendments and supplements, states:

 *Article 10*

1. *The staff of the authorities with competences in the management of European funds, their intermediate bodies, the joint secretariat structures, the joint technical secretariat, respectively the first-level control units/control, as well as the staff of the authorities responsible for the certification of expenditure/preparation of annual accounts and external audit have the obligation to refrain from taking measures that may generate a conflict between their own interests and the financial interests of the European Union.*

 *(2) The provisions of paragraph (1) shall also apply to the following persons:*

*a) natural or legal persons who carry out outsourced activities through which they directly participate in the evaluation/selection/approval/control process, as the case may be, of funding applications, respectively in the verification/authorization/payment/control process of reimbursement/payment applications*

*b) the staff of the beneficiaries and other public or private legal entities, if they are involved in activities that can be included in the execution, auditing or control of the budget of the European Union.*

 *(3) The persons referred to in paragraphs (1) and (2) shall be considered to be in a conflict of interest if the impartial exercise of their duties/activities is affected for the reasons set out in Article 61 paragraph (3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 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. 966/20121.^1*

*Article 11*

*(4) If there are elements that generate a potential conflict of interest, the persons provided for in art. 10 para. (2) letter b) have the obligation to notify it to the authority competent in the management of European funds.*

* Article 61 paragraphs 1 and 3 of Regulation (EU, Euratom) 2024/2.509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (reform), states:

*Article 61 Conflict of interest*

*1.Financial actors within the meaning of chapter 4 of this title and other persons, including national authorities at any level, involved in budget implementation under direct, indirect and shared management, including acts preparatory thereto, audit or control, shall not take any action which may bring their own interests into conflict with those of the Union. They shall also take appropriate measures to prevent a conflict of interests from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interests.*

*3.For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest*

Therefore, taking into account the provisions of art. 10 paragraph 2 point b, the provisions of art. 10 paragraph 3 in conjunction with art. 11 paragraph 4, of OUG no. 66/2011 with subsequent amendments and completions and art. 61 paragraph 3 of Regulation (EU, Euratom) 2024/2.509, in order to avoid a conflict of interest, **persons who have the capacity of legal representatives of private beneficiaries within the Interreg programs for which Romania fulfills the role of National Authority have the obligation to avoid signing in a dual capacity their appointment within the projects, as well as subsequent documents, regardless of the function/position within the project team. The same obligation is also applicable to the spouse/relatives/in-laws up to the second degree inclusive, of the persons who have the capacity of legal representative.**

**^1 Currently repealed and replaced by Regulation (EU, Euratom) 2024/2.509 of the European Parliament and of the Council of**

**September 23, 2024 regarding the financial rules applicable to the general budget of the Union (reform)**

**The general decision to empower as legal representative for the current activities of the organization and/or for the activities within the cross-border project cannot represent a document that would remove a potential conflict of interest in the case of appointing/signing employment documents for oneself within the project team.**

**The signing of the appointment act within the projects for oneself by the legal representative of the beneficiary legal entity within the Interreg programs can only be done based on the express mandate granted, in this regard by decision/other document issued by the decision-making structure according to the regulatory/constitutive act (e.g. the board of directors, the general assembly, the council, etc., as the case may be, depending on the form of constitution).** **In this case, in order to prove that signing one's own appointment within the project represents only a formal act of implementing the decision of the collective management body, the above-mentioned document must contain the mention of the inclusion in the project team of the legal representative and/or, as the case may be, of the spouse of relatives/in-law up to the second degree inclusive, as well as the function/position held.**

**In the absence of an express mandate granted in the sense of the above by decision/other document issued by the decision-making structure according to the regulatory/constitutive act (board of directors/general assembly, etc., as the case may be, depending on the form of constitution), the appointment documents and the documents issued in the implementation of the projects (e.g. employment contracts, time sheets, etc.), will be signed by the hierarchical superior or by a person designated for this purpose.**

**Maria Magdalena VOINEA Head of National Authority**

**Danube Region Programme,**

**Interreg EUROPE Programme,**

**Interreg URBACT IV Programme,**

 **Interreg NEXT VI A Romania – Republic of Moldova Programme**

 **Interreg NEXT VI A Romania – Ukraine Programme**

 **Interreg VI-B NEXT Black Sea Basin Programme**

 **Interreg VI-A NEXT Hungary-Slovakia-Romania-Ukraine**