



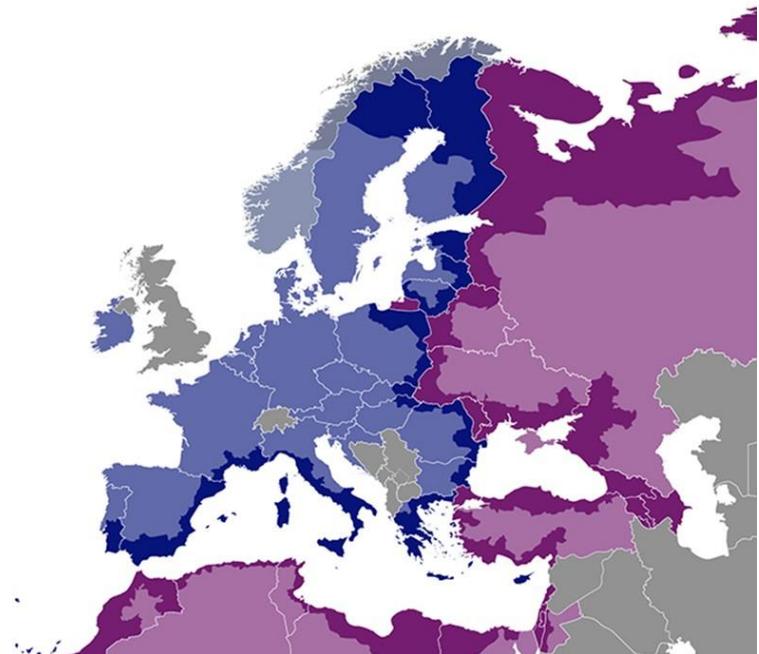
# TESIM

Technical support to the implementation  
and management of ENI CBC programmes

## Recommendations for improving the procedures for preventing and detecting fraud

A short guide for national authorities in ENI CBC  
programmes

August 2022



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## 1. Background

The prevention, detection and correction of irregularities and fraud are a joint responsibility of the programme bodies and the participating countries, and affect multiple procedures in ENI CBC. The authorities of the participating countries<sup>1</sup> have specific functions in the prevention and detection of fraud. These functions are described in different programme documents related to the establishment and functioning of the management and control system<sup>2</sup>.

The first challenge is what type of problem shall be treated as a suspicion of fraud. The [Association of Certified Fraud Examiners](#) (ACFE) classifies fraud into three types:

1. Intentional manipulation of financial statements (e.g., inappropriately reported expenditure).
2. Any type of misappropriation of tangible or intangible assets (e.g., fraudulent expense reimbursements).
3. Corruption (e.g., bribery, bid rigging, undisclosed conflict of interest, embezzlement)

This classification can be a starting point for to identify which areas are fraud sensitive and how to build the system to fight against it in the framework of cross-border cooperation programmes.

Robustly-designed and effectively implemented management and control systems can considerably reduce the risk of fraud but cannot eliminate the fact of it occurring or remaining undetected. Therefore, it is important not only to implement detection measures, but also to focus on fraud prevention ones.

To develop effective fraud prevention and communications procedures, it is necessary to consider what constitutes fraud, according to the definition in the relevant legislation of the European Union (EU), as stipulated in the Financing Agreements signed between CBC Partner Countries and the European Commission (EC). This definition can be found in article 3.2 of the [Directive 2017/1371 on the fight against fraud to the Union's financial interest by means of criminal law](#).

The clear commitment of the authorities of the participating countries to combat fraud and corruption, raises awareness to all stakeholders about its preventive and detective controls, and shows that is determined in transmitting cases to the competent authorities for investigations and sanctions. It will send a clear message to any potential perpetrators and could change behaviours and attitudes towards fraud.

In this document we show the results of an analysis of programme and national documents regarding the extent to which fraud prevention measures are developed and the availability of these documents in the public domain.

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<sup>1</sup> The authorities of the participating countries include all the concerned bodies at country level, at least National Authority (NA), Control Contact Point (CCP), OLAF counterpart and member of the Group of auditors (GoA).

<sup>2</sup> Description of the Management and Control Systems (DMCS).

The overview of the current procedures developed by programmes and the authorities of participating countries is presented in the next section of the document. Other sections are devoted to the practical issues of how authorities of participating countries can be involved in the fraud prevention and detection. The document also contains an *ad-hoc* list of fraud indicators with the links to budget lines applicability. At the last section, good practices for prevention and detection of fraud are summarised, and recommendations for participating countries provided.



## 2. Overview of the current procedures developed by programmes and authorities of participating countries regarding the fraud prevention

Clear procedures for fraud prevention and identification developed by the MAs are the basis for the development of country-specific anti-fraud procedures by the authorities of the participating countries.

These procedures should be specified in the programme documents and be visible for the other programme bodies, as well as for the grant beneficiaries and auditors carrying out expenditure verification. In this regard, TESIM has undertaken an analysis of the documents of seven programmes<sup>3</sup> and the result of the analysis is as follows:

**Table 1**  
**Results of the analysis of the anti-fraud documents at programme level**

State of play	Description of the anti-fraud procedures	Public availability of anti-fraud documents
Excellent	7	3
Moderate	0	2
Poor	0	2

### Excellent

The general procedures are well described in the programme documents, the anti-fraud policy or other relevant documents are published on the website of the programme.

### Moderate

The description of the procedures regarding fraud prevention is not clear, the anti-fraud policy is included in other programme documents.

### Poor

The documents about anti-fraud policy are not publicly available (not possible to assess the completeness of the procedures/documents).

### Key conclusion:

The programmes have **well described general procedures**. However, the relevant documents about anti-fraud policy and actions are often not **published or referenced** on the programme websites.

Table 2 shows the results of an analysis of the work of the authorities of the participating countries regarding the development of policies and procedures to prevent fraud.

<sup>3</sup> Black Sea Basin, Hungary-Slovakia-Romania-Ukraine, Italy-Tunisia, Mediterranean Sea Basin, Poland-Belarus-Ukraine, Romania-Republic of Moldova and Romania-Ukraine were studied.

**Table 2**  
**Results of the analysis of availability of anti-fraud policies and measures of the 23 countries participating in the seven reviewed programmes<sup>4</sup>**

State of play	Anti-fraud strategy	Anti-fraud statement	Whistleblowing system	Assessment of fraud risk
Excellent	1	0	0	0
Good	0	0	21	0
Moderate	5	1	2	3
Poor	17	22	0	20

**Excellent**

The anti-fraud strategy is publicly available; the anti-fraud statement is publicly available (visible); the whistleblowing system is established; the assessment of fraud risk is conducted on a regular basis.

**Good**

The anti-fraud strategy is publicly available, but not easy to find; the anti-fraud statement is publicly available (visible), but not easy to find; the whistleblowing system is established for all cases of fraud (not for ENI CBC in particular); the assessment of fraud risk is not conducted on a regular basis.

**Moderate**

General ideas regarding the anti-fraud strategy are available in the different documents (for example, codes of ethics, general national strategies, etc.), but a separate document is not designed; the anti-fraud statement is included in other documents; the whistleblowing system is established with limitations (for example, an email only); the assessment of fraud risk is conducted rarely or on an unsystematic basis.

**Poor**

The anti-fraud strategy is not publicly available; the anti-fraud statement is not publicly available (or not visible); the whistleblowing system is not established; the assessment of fraud risk is not conducted.

### Key conclusions:

1. Most national authorities **have not posted the anti-fraud statements and strategies on their websites**, although such documents are surely available for internal use.
2. Some countries include **specific anti-fraud provisions in other documents** (e.g., codes of ethics, general national strategies).
3. Most national authorities **have whistleblowing systems** - hotlines, emails or survey forms - that can be used to inform about any violations, including suspicions of fraud.
4. The information about fraud risk assessment conducted **is available only for few countries**.

<sup>4</sup> Armenia, Bulgaria, Georgia, Greece, Republic of Moldova, Romania, Turkey, Ukraine, Slovakia, Hungary, Italy, Tunisia, Poland, Cyprus, Egypt, France, Israel, Jordan, Lebanon, Malta, Palestine, Portugal, Spain.

### 3. *National authorities involved in fraud prevention and detection*

This chapter describes possible ways how the authorities of the participating countries can be involved in the detection and prevention of fraud. The specific procedures shall be developed at national level separately.

- **National Authority (NA)**

The NA cooperates with the MA and the CCP in carrying out joint controls with the representatives of the MA/Joint Technical Secretariat (JTS) on the eligibility of expenditure of the lead partners and/or partners in the country. In case of detected violations, including cases of abuse and suspected fraud, the NA informs the MA, the CCP and the OLAF counterpart.

- **Control Contact Point**

The CCP: 1) coordinates the work related to the organization of the verification of expenditures incurred by the lead partners and/or partners (residents) in the implementation of projects, in accordance with the Financing Agreements signed between the relevant country and the European Commission and 2) interacts with the Audit Authorities (AA) and the OLAF counterpart.

- **OLAF counterpart**

OLAF investigates fraud against the EU budget, corruption, and serious misconduct within the European institutions, and develops the anti-fraud policy for the European Commission. A counterpart of OLAF in a country is obliged to investigate or initiate investigations of suspicion of fraud and inform about fraud cases to OLAF.

- **Members of GoA**

The Members of the GoA shall assist the AA in the assessment of the national part of the system and during the performance of sample checks of project expenditure. It also assists the AA in the elaboration of the audit strategy for the programme, either by preparing it jointly or by endorsing the one prepared by the AA. Since the GoA is involved in the development of the audit strategy and methodology and the analysis of audit reports, it can assist in the prevention of fraud (for example, this aspect can be included in the audit strategy and methodology) as well as in the early identification of fraud risks (for example, through report analysis).

- **Auditors carrying out expenditure verification of project beneficiaries**

Even if auditors are not primarily responsible for investigating fraud, they may identify and assess systemic fraud risks in the performance of the controls of a project. Auditors are obliged to report about suspicion of fraud, if it is detected, to the MA or/and JTS at the time of the audit report submission. The procedure of communication is established at programme level.

- **Other bodies**

Any other national bodies which may be involved in the procedures of detection and prevention of fraud depending on the national legislative framework. A non-exhaustive list of such bodies can include customs, police, security services, prosecutor's office and state security authorities.

## 4. Fraud prevention

Given the difficulties in proving fraudulent behaviour and repairing reputational damage, it is generally preferable to prevent fraudulent activity rather than to have to deal with it after it occurs. Prevention techniques most often revolve around reducing opportunities to commit fraud via the implementation of a robust internal control system, combined with a proactive, structured, and targeted fraud risk assessment. Comprehensive training and awareness raising activities, together with the development of an **ethical culture**, are essential elements to combat any potential fraudulent behaviour.

Considering the capacity of the NA, the activities for prevention of fraud may be summarised in three types of actions:

- **Information**

The relevant information about fraud prevention measures (laws, programme documents, factsheets, information about trainings and training materials, etc) shall be published on the website of the NA.

- **Capacity building**

Capacity building in case of fraud prevention can be developed in two major ways:

1. by developing training events for staff of all national institutions concerned with programmes' implementation;
2. via the organisation of the trainings for beneficiaries and auditors of approved projects, before projects start and during their implementation.

Formal training and awareness-raising can be included within the organisation's overall risk management strategy, as necessary. All staff could be trained on both theoretical and practical matters, to enhance the anti-fraud culture and to assist in identifying and responding to suspected instances of fraud. It should cover the details of anti-fraud policy, specific roles and responsibilities and reporting mechanisms. The same approach can be used to train beneficiaries, but beneficiaries shall be also informed about the consequences of the irregularities, fraud and corruption.

Awareness-raising can also be carried out via less formal events, such as through newsletters, posters, intranet sites or the inclusion as a regular agenda item for group meetings.

- **Support**

The NA shall provide support to the MA in matters relating to suspected fraud and shall help the MA to contact relevant authorities at country level, if necessary.

## 5. Communication

The establishment of clear communication mechanisms is a key element of prevention and detection of fraud. Preventive techniques cannot provide absolute protection against fraud, and so the NA is obliged to inform the relevant MA about any suspicion of fraud.

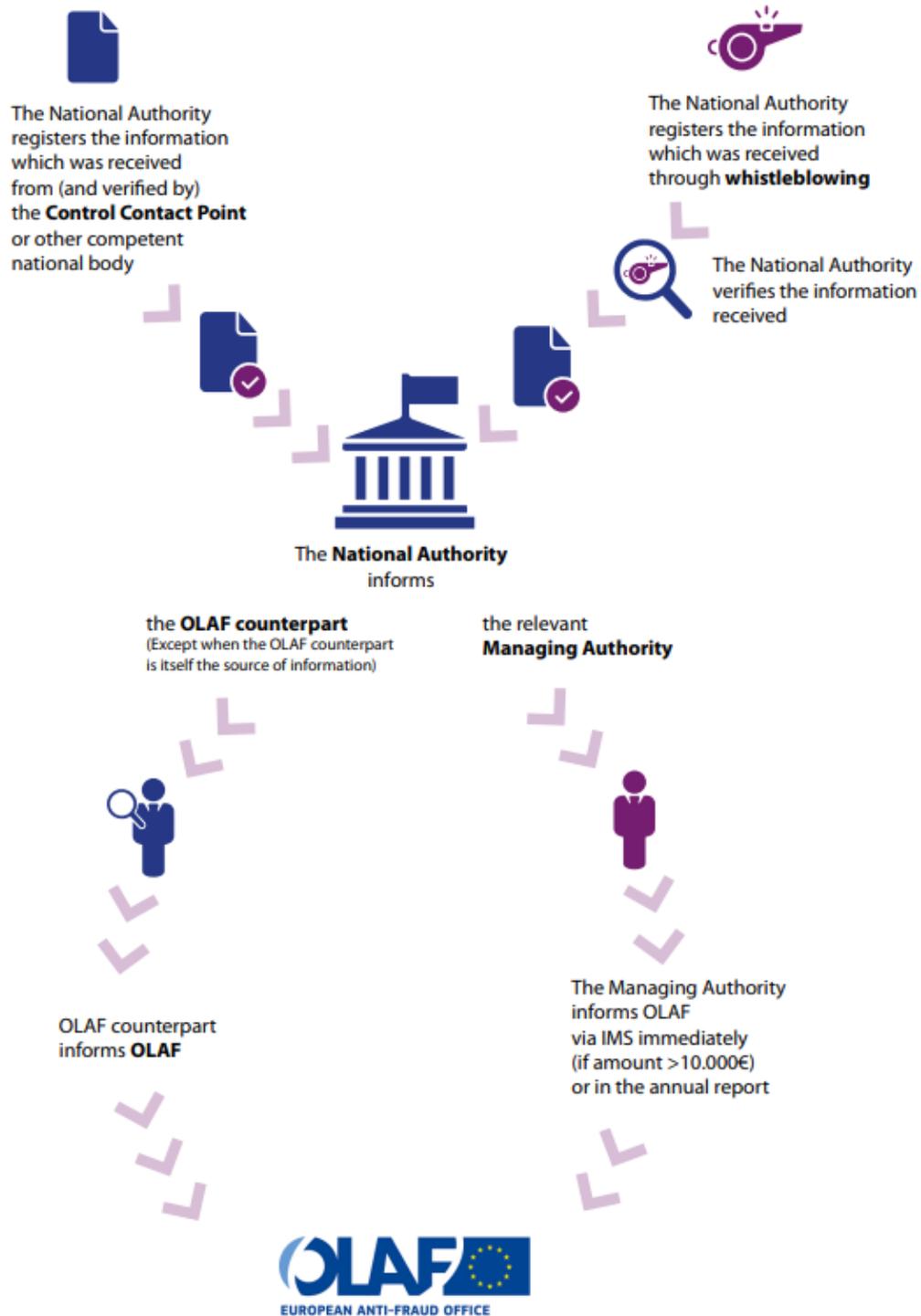
The responsibilities of the NA regarding communication of suspected fraud are defined by national legislation, as well as the ENI CBC Implementing Rules (EU Regulation 897/2014), which is applicable via the Financing Agreements. If the NA does not have full access to all data bases from which fraud suspect can be detected, it is obliged to inform only if the information about suspicion of fraud becomes available.

The information about possible cases can become available through:

- A) **whistle-blowing channels**, which must be known and easily accessible to any person willing to denounce a suspected fraud. It is of utmost importance that the tips received are not anonymous; at the same time, there has to be the certainty of the protection of the identity of the whistle-blower. In this case, the NA will inform the relevant MA via email only after verification of the received information. The NA must also inform the relevant national bodies responsible for the fight against fraud and corruption according to the internally developed procedures.
  
- B) a **notification** from national bodies controlling public expenditure, OLAF counterparts or the Control Contact Point (CCP). In this case, the NA will inform the relevant MA via email after receiving the information

In both cases, it is the responsibility of the counterpart of the EU on anti-fraud issues to inform directly the Office for the Fight Against Fraud (OLAF) through the agreed communication channels. Also, the MAs are obliged to inform OLAF via the Irregularity Information System on behalf of the CBC Partner Countries, as they do not have access to this software tool.

*Image 1*  
**Basic steps of the communication flows concerning the suspicion of fraud**



## 6. Fraud indicators

The identification of fraud requires knowledge of certain indicators. The [Information Note on Fraud Indicators for ERDF, ESF and CF \(COCOF 09/0003/00-EN\)](#) contains a comprehensive list of fraud indicators, part of which are relevant to ENI CBC programmes. The summary of indicators and areas where they shall be treated as **red flags**<sup>5</sup> is provided in the Table 3.

**Table 3**  
**Fraud indicators and possible areas of application in the ENI CBC programmes**

Group of indicators	Indicators	Applicability to budget categories (red flag)
Corruption and kickbacks	Unexplained favourable treatment of a contractor by a contracting employee over a period.	Procurement
	Close socialization between a contracting employee and service or product provider.	
	Unexplained or sudden increase in wealth by the contracting employee.	
	Undocumented or frequent changes to contracts increasing the value of the contract.	
	Contracting employee declines promotion to a non-procurement position.	
	Contracting employee fails to file or complete conflict of interest declaration.	
	Employee never taking holiday.	
Undisclosed conflict of interest	Unexplained or unusual favouritism of a particular contractor or seller.	Procurement
	Continued acceptance of high-priced, low-quality work, etc.	Procurement
	Contracting employee declines promotion to a non-procurement position.	Procurement or/and staff costs
	Contracting employee relatives work for the contracted company.	Procurement or/and staff costs
	Relative or friend of the beneficiary of the contract gets employed on the contract by the contractor.	Procurement
	Regular employees of the beneficiary get employed on the contract so that the beneficiary gets their salary as a partial or total kickback.	Procurement or/and staff costs
	Unusual behaviour of an employee when dealing with a file: unexplained delays, documents missing, reluctance to answer to requests of the hierarchy.	Procurement or/and staff costs
Collusive bidding	Winning bid is too high compared to cost estimates, published price lists, similar works or services or industry averages and fair market prices.	Procurement
	Persistent high prices by all bidders.	
	Bid prices drop when new bidder enters the competition.	
	Rotation of winning bidders by region, job, type of work.	

<sup>5</sup> A warning signal that indicates or draws attention to a problem, danger, or irregularity.

	<p>Losing bidders hired as subcontractors.</p> <p>Unusual bid patterns (e.g., the bids are exact percentage apart, winning bid just under threshold of acceptable prices, exactly at budget price, too high, too close, too far apart, round numbers, incomplete).</p> <p>Apparent connections between bidders (e.g., common addresses, personnel, phone numbers, registration of websites of different companies by same person, very similar logo and/or common lay-out of the documents provided).</p> <p>Contractor includes subcontractors in its bid which are competing for the main contract.</p> <p>Qualified contractors fail to bid and become subcontractors or low bidder withdraws and becomes a subcontractor.</p> <p>Certain companies always bid against each other; others never do.</p> <p>Losing bidders cannot be located on the Internet, business directories, have no address, etc. (in other words they are fictive).</p> <p>Correspondence or other indications that contractors exchange pricing information, divide territories, or otherwise enter informal agreements.</p> <p>Collusive bidding has been found in the following sectors and is also relevant for structural funds: asphalt paving, building construction, dredging, electrical equipment, roofing, waste disposal.</p>	
<b>Unjustified single source award</b>	<p>Single source awards above or just below competitive bidding thresholds.</p> <p>Previously competitive procurements become non-competitive.</p> <p>Split purchases to avoid competitive bidding threshold.</p> <p>Request for bid mailed only to one service provider (when a tender has been cancelled and the procedure has been changed to restricted negotiation).</p>	Procurement
<b>Cost mischarging</b>	<p>Excessive or unusual labour charges.</p> <p>Labour charges inconsistent with contract progress.</p> <p>Apparent changes to time sheets.</p> <p>Time sheets cannot be found.</p>	Staff costs
	<p>The same material costs charged to more than one contract.</p>	Service or /and Infrastructure
	<p>Charging indirect costs as direct costs.</p>	Service or/and infrastructure or/and staff
	<p>Total working hours for an employee incoherent.</p> <p>Costs of certain personnel may be charged as both direct and indirect.</p>	Staff costs
<b>Consulting services</b>	<p>No formal signed agreements or contracts; however, large sums paid for "services rendered" based on invoices with few specifics.</p> <p>Formal agreements or contracts exist but are vague as to services to be rendered, and no other documented</p>	Service or /and Infrastructure

	support, such as detailed invoices, trip reports or studies, exists to justify the expenses.	
	Services paid for were used to improperly obtain, distribute, or use information or data protected by law or regulation.	
	Services paid for were intended to improperly influence the content of a solicitation, the evaluation of a proposal or quotation, the selection of sources for contract award or the negotiation of a contract, modification, or claim. It does not matter whether the award is by the prime contractor or any tier subcontractor.	
	Services paid for were obtained or performed in some way that violated a statute or regulation prohibiting improper business practices or conflict of interest.	

These indicators are applicable to the full cycle of the programme control and monitoring and can be used both by the MA and the authorities of the participating countries in their respective procedures. When developing the anti-fraud approach in a particular programme, these indicators can be used as the reference point when agreeing on the division of control tasks between the programme and the national authorities.

## 7. Good practices for prevention and detection of fraud

The EC has developed a comprehensive legal framework and gathered good practices for the prevention of fraud and corruption. In this section we provide a short reference to some useful documents which contain good practices in this field. They will help the national authorities to find the necessary information regarding fraud characteristics more quickly. Additionally, the European Commission developed an [Anti-fraud Knowledge and Resource Center](#), which may be useful to consult examples of good practices, case studies, links to relevant legislation and other material on this subject. The documents which are listed below must not be used as a legal or normative basis for audit of investigative purposes.

- **Guidelines on National Anti-Fraud Strategies**

This document reflects good practices and provides Member States and Partner Countries with:

- ✓ A step-by-step method for elaborating a National Anti-Fraud Strategy.
- ✓ Components of the National Anti-Fraud Strategy and template for its structure.
- ✓ Concrete examples of Member States' practice.

- **Guidelines for national anti-fraud strategies for European Structural and Investment Funds (ESIF)**

This document is intended to facilitate the implementation of operational programmes and to encourage good practice. The document explains the preparatory phase, elaborating phase, setting the action plan and the evaluation of the strategy.

- **Information Note on Fraud Indicators for ERDF, ESF and CF**

This document provides information about fraud, fraud treaty and fraud types. Also, it explains the reasons behind the fraud and responsibilities of different authorities for fraud prevention and detection.

- **Fraud in public procurement**

This document reflects good practices and explores the issue of fraud in public procurement and helps with its early detection by the set of red flags and best practices which were collected. It should be read and used in the context of national legislation and may be adapted considering the national legal framework. The handbook has information about red flags on all stages of procurement: pre-tendering phase, tendering phase, post tendering phase, and about horizontal fraud prevention tools.

- **Identifying conflicts of interests in public procurement procedures for structural actions: A practical guide for managers**

The document provides recommendations for managers and officials in the managing and contracting authorities on identifying and handling conflicts of interests regarding public procurement financed by the EU budget under structural actions and cohesion policy programmes. It covers all types of public procurement, irrespective of the amount involved.

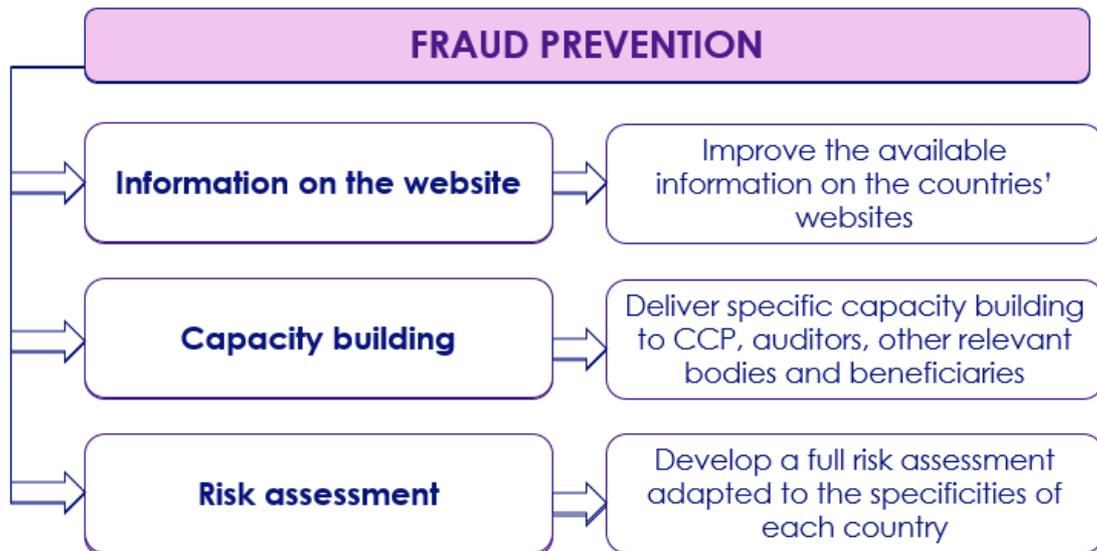
- **Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures**

The document provides recommendations for establishing proactive and targeted approach to managing fraud risk. Also, it provides guidance to a minimum requirement for effective and proportionate anti-fraud measures.

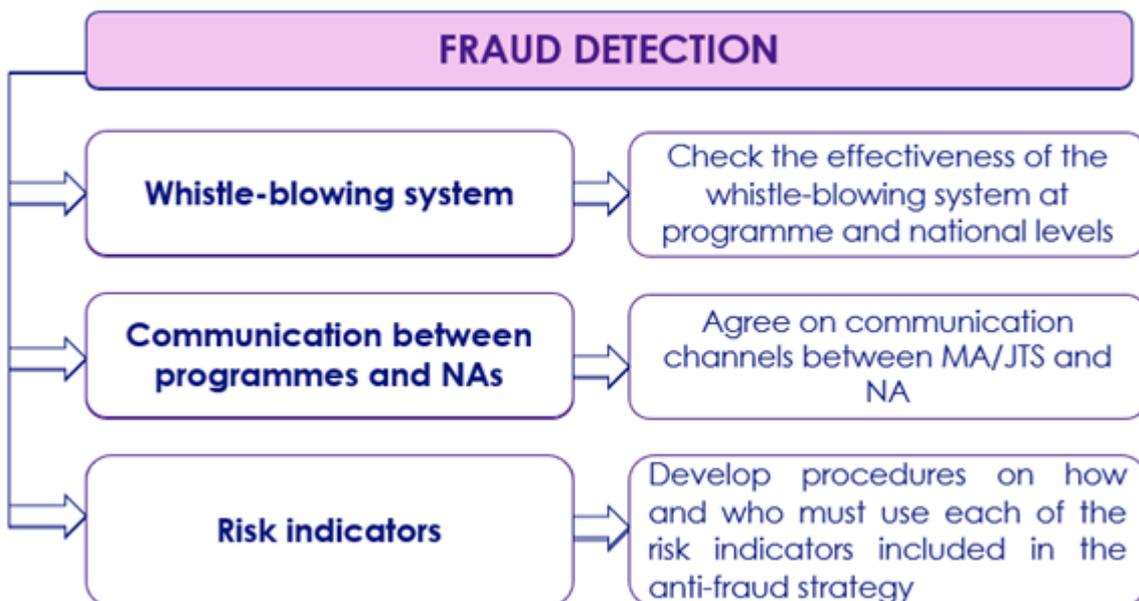
## 8. What can be done by Partner Countries?

The results of the two anti-fraud events organised in June 2022 for the Partner Countries have made it possible to identify weaknesses at national level in the processes for developing measures to detect and prevent fraud. At the same time, the discussions helped to identify actions that these countries can already take to prevent and detect fraud (Figure 1 and 2).

*Figure 1. Fraud prevention*



*Figure 2. Fraud detection*



## **9. Good practices for prevention and detection of fraud developed by Partner Countries: the case of the Republic of Moldova**

The Republic of Moldova can be seen as an example of developing at national level good measures aimed at preventing and detecting fraud. The development of such measures took place in several stages, and it is still in progress.

### **1. Since 2017 the National Anticorruption Centre (NAC)<sup>6</sup> participates as an observer in the National Working Group on coordinating the implementation of EU-funded cross-border and transnational cooperation programmes**

The Working Group was established in 2017 by a government decision, and NAC became a member with observer rights. The observers do not participate in the voting process during the meetings of the Working Group and refrain from submitting proposals or recommendations on the topics discussed there.

### **2. The Additional Protocol to the Cooperation Agreement between the NAC and the Ministry of Finance was signed in 2020**

The Protocol includes provisions on cooperation in the fight against fraud between the two organizations, on the way information is exchanged, on the obligation of the NA to ensure that the NAC has access to the various databases held by the NA, and some provisions on cooperation with the NAC in carrying out its tasks OLAF counterpart.

### **3. Appointment of the contact persons from both sides to streamline cooperation**

The NA has appointed a contact person for anti-fraud cooperation with the NAC. The same contact person is responsible for following up all complaints of irregularities by registering them in the Register of Evidence of Complaints of Irregularities, Fraud and Corruption under the ENI CBC and transnational Cooperation programmes, followed by informing NAC and the State Audit Office of suspected irregularities. The status of each case under investigation is continuously monitored and reported to the relevant stakeholders. The **NA only informs the NAC** of each suspected irregularity, and only after confirmation by the NAC can the identified irregularities be classified as fraud.

### **4. Since 2020 NAC is involved in the compilation of the Quarterly Verification Report for the Interreg Danube Transnational Programme**

On a quarterly basis, the NA asks the NAC to check the projects for possible irregularities which are reported to OLAF. The purpose of this type of reporting is to identify at an early stage in the process suspected irregularities/fraud/corruption and to prevent the fraudulent use of EU funds.

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<sup>6</sup> OLAF counterpart.

## **5. Participation in anticorruption training provided by OLAF through the European Neighborhood Policy & EU enlargement Training & Cooperation Project in 2021.**

The training was devoted to the criteria for opening an investigation and the tools that allow MD NAC to work independently, the new rules of EU Directive 1371 from 2017 on the fight against fraud to the Union's financial interests by means of criminal law and about the best practices in member states.

All the above activities have contributed to the development of several important **national documents** for the prevention and detection of fraud:

1. Operational procedure for activities on prevention, detection, and correction of irregularities within the EU-funded cross-border and transnational cooperation programmes 2014-2020.
2. Operational procedure on recovering the EU funds obtained/utilized by irregularities, fraud or corruption within the EU-funded cross-border and transnational cooperation programmes 2014-2020.

These two procedures are part of a set of eight procedures developed by the NA for the implementation of the European Union-funded cross-border and transnational cooperation programmes on the territory of the Republic of Moldova, and which were approved in 2020 through an internal Order of the Minister of Finance.

These procedures are needed for the implementation of EU Regulation No 897/2014.

3. Register of evidence of complaints on irregularities within the EU-funded cross-border and transnational cooperation programmes 2014-2020.

The documents listed above are not exhaustive but can be considered a good starting point for building an effective fraud prevention and detection system.

The case of the Republic of Moldova is not universal but can be seen as an example of good practice for other Partner Countries.

## 10. Conclusions and recommendations

Although national authorities in most countries already have a strong track record of fraud prevention and detection, these are often documents for internal use. In such a situation, beneficiaries are not only unaware of the existence of anti-fraud strategies, but also have no opportunity to use such a document as a basis for developing their strategy.

Therefore, national authorities should address the following aspects:

1. Make the anti-fraud strategy and the anti-fraud statement publicly available. If such documents are included in the state's overall development strategies, they should be separated.
2. Improve the whistleblowing system and make it clear and user-friendly for potential users. This system should include several methods of communication: a hotline, an email and a chat-form.
3. Ensure regular assessment of the risks of fraud.
4. Regular awareness-raising and capacity building activities for existing and new beneficiaries on fraud prevention and detection procedures. Development of specific methodological materials for the beneficiaries.
5. Agree at programme level on which indicators will be integrated into the specific procedures for preventing and detecting fraud.

