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*Avrupa Birliđi Bakanlıđı*  
*IPA II Teknik Destek Projesi*

*Ministry for EU Affairs*  
*Technical Assistance for IPA II*

“IPA II: Taking EU funding to the next level”

15.-16.5.2017 – Advanced training on  
Irregularities

Ivana Varga



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# Advanced training on Irregularities

Day 2  
16.5.2017



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# Training Agenda – Day 2



Sessions	Topic
	Welcome Review of Day 1
9:30-10:45	Implementing preventive measures: design of the preventive measures tools for preventing irregularities sharing experience – analysis of the available statistics, expert group network
10:45-11:00	Coffee Break
11:00-12:30	Anti-fraud policy: state of play on anti-fraud strategies, fraud risk assessment and management; identifying and monitoring risky projects and procedures anti-fraud strategy design, implementation and evaluation
12:30-13:30	Lunch
13:30-14:45	Detecting suspected fraud: definition and features of fraud. detecting suspected fraud. from suspected fraud to fraud. overview of EU practice
14:45-15:00	Coffee Break
15:00-16:00	Preventing fraud and corruption in public procurement: measures for identifying and reducing fraud risks in public procurement, corrective measures
16:00-16:15	Questions & Answers for Day 2
16:15-16:30	Exit test Evaluation of the training by participants Closure of the training



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# Preventive measures



- The best way to reduce irregularities is to make them unacceptable to the various participants or actors involved in projects
- Irregularities can occur at any stage in the life cycle of a project or programme as well as in the day-to-day operation of any institution / organisation
- Systems set up for ensuring the detection and prevention of irregularities must therefore cover the whole project life cycle



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# Tools for preventing irregularities



- Written procedures: Based on the “four-eye” control principle over internal controls applied
- Separation of functions to separate responsibilities: Functions of basic financial management (i.e. pre-payment checks, approval of payment, operating bank accounts, accounting and reporting) shall be separated
- Job descriptions: Communicated to the respective staff



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# Tools for preventing irregularities



- Controls: All transactions shall be subject to ex-ante controls [before approval and recording] and ex-post controls to be documented in checklists. Ex-post controls would consist of: controls performed after the transactions have taken place (for example, reconciliation of bank accounts after the bank has executed the transactions), on-the-spot-controls and controls performed by the auditors (e.g. Internal auditors, Audit Authority, Court of Accounts (Sayıştay)).



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# Tools for preventing irregularities



- Registration: Establishing a transparent and auditable system of registration and filing of documents
- Maintaining the audit trail
- Training: The staff shall be provided with training on irregularities as a minimum through:
  - Training for newly recruited staff:
  - Regular training events on irregularities



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# Sharing experience



- The NAO may receive from the EC reports on:
  - Irregularities which may very quickly have repercussions outside the related countries and/or show that a new fraudulent mal-practice has been employed,
  - Lessons learnt in connection with irregularities, preventive measures and legal proceedings.
- The NAO would share such information with the key IPA stakeholders in Turkey



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# Sharing experience



- Within the institution:
  - IO of the institution should perform periodically (e.g. quarterly) the analysis of irregularity cases including assesment of:
    - Volume of irregularities
    - Types of the most frequent cases
    - Sources of alerts
  - The conclusions should be disseminated to the employeeyes of the institutions



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# Sharing experience



- Interinstitutionally:
  - MS should perform periodically (e.g. quarterly) the analysis of irregularity cases including assesment of:
    - Volume of irregularities
    - Types of the most frequent cases
    - Sources of alerts
  - The conclusions should be disseminated to all institutions constituting MCSs
  - Could be performed through expert group network



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# Awareness raising and communication



- The information should reach the target groups:
  - General public (about transparent use of EU assistance)
  - Applicants (about MCS, responsibilities and possible corrections in case they fail to comply with the rules)
  - Beneficiaries (about the areas where the irregularities occur, such as public procurement, performance, invoicing of not performed work, eligibility of expenditure, visibility requirements, double financing...)



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# Anti-fraud policy



- drawing on its accumulated knowledge and experience, OLAF helps the authorities responsible for managing EU funds – inside and outside the EU – to understand fraud types, trends, threats and risks, and to protect the EU's financial interests by preventing fraud of all kinds



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# EC Anti-Fraud Strategy



- Aims:
  - improve and update fraud prevention, detection and investigation techniques
  - recover a higher proportion of funds lost due to fraud
  - deter future fraud through appropriate penalties



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# EC Anti-Fraud Strategy



- basic principles:
  - Ethics – the EC and the other authorities responsible for the management of EU funds must observe the highest standards of ethical behaviour and integrity
  - Enhanced transparency - the relevant information on the use of EU funds should so far as possible be available in a format which can be audited, compared and analysed for anti-fraud purposes
  - Fraud prevention - analysis of the potential for exposure to fraud will be included in feasibility studies and impact assessments, wherever relevant



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# EC Anti-Fraud Strategy



- Effective investigation capacity - adequate tools and incentives are important for the effective detection and investigation of fraud. When fraud is suspected, anti-fraud bodies need discreet access to the necessary information, in cooperation with the institutions and bodies concerned with an audit trail and in compliance with the regulations in force
- Sanctions - justice must be achieved with due process and in reasonable time. Procedures must provide for enhanced standards of due process using mechanisms that enable swift and independent action
- Good cooperation between internal and external actors



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# Key anti-fraud principles



- zero tolerance to fraud
- the right tone from the top
- a proactive, structured and targeted approach to managing the risk of fraud
- -main objective: proactive and proportionate anti-fraud measures with cost-effective means

**DUTY TO PROTECT TAXPAYERS' MONEY!**



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## Minimum requirements for effective and proportionate anti-fraud measures



- The anti-fraud cycle: prevention, detection, correction and prosecution
- Anti-fraud policy:
  - strategy for the development of an anti-fraud culture
  - allocation of responsibilities for tackling fraud
  - reporting mechanisms for suspicions of fraud
  - cooperation between the different national actors



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## Minimum requirements for effective and proportionate anti-fraud measures



- Prevention:
  - commitment to combat fraud and corruption
  - raise awareness internally and externally about preventative and detective controls
  - transmit cases to the competent authorities for investigations and sanctions
  - state the anti-fraud policy visibly: DETER FRAUDSTERS!



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## Minimum requirements for effective and proportionate anti-fraud measures



- Detection:
  - obviously, preventative techniques cannot provide absolute protection against fraud
  - complement your risk assessment and detect suspected cases timely (use e.g. the ARACHNE tool)
  - develop an appropriate mindset
  - embed fraud indicators in checklists (red flags)



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## Minimum requirements for effective and proportionate anti-fraud measures



- Reporting mechanisms:
  - mechanisms should facilitate the reporting of both suspicions of fraud and control weaknesses that may increase the institution's susceptibility to fraud
  - sufficient coordination on anti-fraud matters with the audit authority and competent investigative authorities, including anti-corruption authorities



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## Minimum requirements for effective and proportionate anti-fraud measures



- Communication and training with staff about reporting mechanisms must ensure that staff:
  - understands where they should report suspicions of fraudulent behaviour or control weaknesses
  - are confident that they can report in confidence and that the organisation does not tolerate retaliation against any staff member who reports suspicions



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## Minimum requirements for effective and proportionate anti-fraud measures



- Investigation, correction and prosecution:
  - refer cases for investigation in accordance with internal and EU requirements (report to national competent body and OLAF)
  - recover affected amounts after known financial impact and reimburse to the EU budget
  - criminal prosecution, as relevant



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# Fraud risk assessment tool



- The tool focuses on fraud risks in relation to three key processes:
  - Selection of applicants
  - Implementation and verification of the operations (including public procurement-related fraud risks)
  - Payments and certification



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# Tool - basic steps



- 1) assess the 'gross' risk (= impact x likelihood) of specific pre-identified risks occurring under each of the three key processes (plus add any other identified risks)
- 2) identify and assess the effectiveness of controls already in place to mitigate against the identified specific fraud risks
- 3) assess the net risk
- 4) as necessary, put in place any further mitigating controls





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# Benefits from the set of risk indicators and alerts



- In view of limited resources and multiplicity of operations, key actors and systems,
  - Promote the use of a risk based approach in the verifications of the projects (focus on most risky projects)
  - Complement the risk assessment with regard to fraud alerts and irregularities
  - Identify possible irregular circumstances continuously on the basis of predefined risk criteria
  - Build an overall better defense against fraud and errors



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# Examples of risk indicators and alerts



## Procurement

- Lead time between publication of the tender notice and contract signature
- Number of disqualified tender offers / Number of tender offers received

## Contract management

- Contract addenda cost (total) for the project / Project cost
- Number of consortium partners



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# Examples of risk indicators and alerts



## Eligibility

§Project costs outside eligibility period - before start date

§Project costs outside eligibility period - after end date

## Performance

§Number of people trained / Number of people to be trained

§Project total cost / Length in km per Project (Per Type of Road)



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# Examples of risk indicators and alerts



## Concentration

§Beneficiaries involved in multiple Projects

§Project partners involved in multiple Projects

§Consortium members linked to multiple Projects

§Sub-contractors linked to multiple Projects

## Other checks

§EC assistance / Total Project cost

§Fixed assets / Project cost



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# Fraud definition



- *Fraud* means 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 misappropriation or wrongful retention of funds from the general budget of the Union or budgets managed by, or on behalf of, the European Union, non-disclosure of information in violation of a specific obligation with the same effect or the misapplication of such funds for purposes other than those for which they were originally granted



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# Fraud definition



- *Suspected fraud* means an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to above



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# Fraud definition



- *Active corruption* means the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the Union



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# Fraud definition



- *Passive corruption* means the deliberate action of a civil servant, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the Union





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# Fraud – before implementation



- Risks related to selecting „wrong“ candidate / applicant
  - False statements
  - Collusion with members of the contracting authority, bribes, information leaks
  - Collusive tendering: bidders, offers, prices



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# Fraud – before implementation



- Inflation of costs (overcharging, false invoices, double-claiming, false reports)
- Irregular subcontracting (predefined subcontracting, unauthorised subcontracting)
- Irregular implementation (no/insufficient implementation, product substitution)
- Double funding



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# Preventing fraud and corruption in public procurement



- Fraud prevention tools – Red flags:
  - only one or abnormally low number of bidders respond to request for bids;
  - similarity between specifications and winning contractor's product or services;
  - complaints from other bidders;
  - specifications are significantly narrower or broader than similar previous requests for bids;
  - unusual or unreasonable specifications;
  - the buyer defines an item using brand name rather than generic description



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# Preventing fraud and corruption in public procurement



- Additional red flags for collusive bidding:
  - apparent connections between bidders, e.g. common addresses, personnel, phone numbers etc;
  - contractor includes subcontractors in its bid which are competing for the main contract;
  - qualified contractors fail to bid and become subcontractors or low bidder withdraws and becomes a subcontractor;
  - certain companies always bid against each other, others never do;
  - losing bidders cannot be located in the Internet, business directories, have no address etc (in other words they are fictitious);
  - correspondence or other indications that contractors exchange pricing information, divide territories, or otherwise enter informal agreements;



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# Preventing fraud and corruption in public procurement



## Conflict of interests:

- unexplained or unusual favouritism of a particular contractor or seller;
- continued acceptance of high priced, low quality work etc;
- contracting employee fails to file or complete conflict of interest declaration;
- contracting employee declines promotion to a non-procurement position;
- contracting employee appears to conduct side business



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# Preventing fraud and corruption in public procurement



- close socialisation between a contracting employee and service or product provider;
- unexplained or sudden increase in wealth by the contracting employee;
- contracting employee has an undisclosed outside business;
- contractor has a reputation in the industry for paying kickbacks;
- 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



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# Preventing fraud and corruption in public procurement



## Manipulation of bids:

- complaints from bidders;
- poor controls and inadequate bidding procedures;
- indications of changes to bids after reception;
- bids voided for errors;
- a qualified bidder disqualified for questionable reasons;
- job not re-bid even though fewer than the minimum number of bids were received.



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# Preventing fraud and corruption in public procurement



## Split purchase:

- two or more consecutive, related procurements from the same contractor just under competitive bidding or upper level review thresholds;
- unjustified separation of purchases, e.g. separate contracts for labour and materials, each of which is below bidding thresholds;
- sequential purchases just under the thresholds





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# Public Procurement rules

## to detect corruption – Red flags



- There are numerous possible red flags for indicating corruption.
- Some red flags are more relevant than others.
- Some red flags are an immediate alert, some require further investigations.
- Some only work in combination with other red flags, some stand alone.
- EC services continue working on identifying the most relevant red flags for corruption in public procurement.
- The aim is to develop mechanisms to better detect and address corruption



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# Public Procurement rules to address corruption



- What is mainly needed is a change of culture: Culture of Integrity - Public service for
  - Better quality
  - Increased public savings
  - Improved business environment
- Procurement officers should take responsibility from the very beginning of the process until the very end
- Political leaders should lead by example



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THANK YOU FOR YOUR ATTENTION



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