

# European funds – risk or opportunity?

## Compendium of bad and good practices - a contribution to prevention of fraud and corruption related to EU funds // EU FUNDS WATCH project

This summary report was compiled by Transparency International Czech Republic. It uses information and quotations from the four national reports prepared within the project EU FUND WATCH:

- *Corruption Risks in Implementation of EU Funds*, Transparency International Estonia
- *Corruption Risks in Implementation of EU Funding*, Transparency International Lithuanian Chapter
- *EU Funds Watch Project – Hungary*, Transparency International Hungary
- *Fraud and Corruption Risks Related to EU Funds*, Transparency International Czech Republic

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## CONTENTS

Introduction: background and methodology .....	3
Main risk areas identified in national research .....	5
General environment and conditions .....	6
<i>Human resources and capacity</i> .....	6
<i>Missing or ineffective legislation</i> .....	8
<i>Regulations and system setting on national level</i> .....	10
Process and procedures .....	15
<i>Planning/programming</i> .....	15
<i>Distribution phase</i> .....	17
<i>Projects implementation</i> .....	19
Control and feedback .....	20
<i>Mechanisms and capacity</i> .....	20
<i>Content-based vs. financial control</i> .....	22
<i>Lack of public control (and public interest)</i> .....	23
<i>Feedback and information sharing</i> .....	25
Conclusions and recommendations .....	26

## INTRODUCTION: BACKGROUND AND METHODOLOGY

The principles of European solidarity represented, inter alia, by European funds<sup>1</sup> provide considerable opportunity for all beneficiary countries. Huge supply of money may bring resources for necessary structural and infrastructure investment to ensure sustainable economic development as well as for adjusting social capital for such development. It is even more important for “new” EU member states which – as countries in transition – have to develop functioning market economy and support necessary structural changes in society.

The funds are distributed on the EU solidarity basis. It is fully understandable that ensuring control over transparent and effective use of such funds represents an important imperative for all participating agents, both on national and EU level, as the European funds represent a considerable risk regarding misuse of these funds for private gain and associated corruption risks. Misuse of the funds can be seen as an individual distinctive crime, or it can be seen as a threat to reaching objectives and targets for which the funds were allocated. But negative societal impact of EU funds misuse represents even more dangerous risk in long term perspective – EU funds to be seen as an easy target for enrichment while the whole concept of EU solidarity and even development is rejected.

The risk of ineffective use of EU funds is thus not limited to “mere” financial losses. The consequences may be much more severe and far-reaching, from significant waste of public resources on meaningless projects to distortion of basic economic principles and competition, as is aptly summarized in the following harsh statement by J. I. Tóth quoted in the Hungarian report (p.3):

*“... The methods of spending these funds create several long term adverse effects. On the one hand, the distribution mechanisms are the hotbed of corruption, on the other hand the way of spending these funds is so illogical, that it is not visible from Brussels, but probably not even from Budapest. The accounting is checked, the invoice is there, the money was spent, something was built, and the goals were met. However, the money is often spent on ‘surreal’ projects such as the 40 cm high observation tower that cost 40 million HUF – no additional economic effect generated whatsoever. On the other hand the “money brought by wind” system creates an image in the mind of economic actors that it is easier to get on, to be financially successful by having a good application writer than to develop innovative production and sales methods.”*

Mitigation of these risks in order to maximise the opportunity for social and economical development represents an important task both for relevant national administrations and the NGOs focused on public interest monitoring. That is the reason why NGOs in four “new” EU member states joined to prepare the project “EU Funds Watch”.

All countries and relevant institutions develop and use their specific methods to prevent fraud and corruption, particularly in EU funds distribution. Some of such methods are more effective, some less so. However, very seldom such identified methods are exchanged, shared and disseminated, both nationally and internationally. Yet such shared lessons are critical during preparation stage for new set-up of the next financial period of EU funds distribution.

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<sup>1</sup> We use this as a general term for different EU financial instruments implemented in participating countries.

This project intended to research the methods for preventing fraud and corruption used in different bodies implementing EU funds in participating countries, identify successful ones, exchange and discuss best practice at the international conference held in Prague, and disseminate these methods at national seminars.

Areas of risks of fraud and corruption related to EU funds were established during the meeting of experts from the Czech Republic, Lithuania, Estonia and Hungary. Despite a number of fundamental differences in the implementation of EU funds the common areas of risks were identified. Examples of risks connected with each identified area were further examined through media and internet search, and interviews (both oral and through e-mails) were conducted with representatives of implementation structures, control and auditing bodies and police officers and prosecutors. As a result four national reports were prepared. This summary report presents cross-cutting issues as identified in national reports. The analysis brings out a number of deficiencies embedded in EU funds implementation system. It identifies also some good practices which might be used in all member states receiving EU funds. The research phase also established a number of enthusiastic people who are willing to make the EU funds implementation system better, and some positive tendencies. As the Lithuanian report (p. 15) puts it: *“... According to most interviewed agencies, there is now a positive improvement in the ways the implementing agencies organize their work (“the “new players” in the system usually take time to adjust and gain the necessary expertise, while the agencies that are now in the second round of funding seem to be more adapted and have much more expertise”).”*

New programming period provides great opportunity to make some structural improvements so that EU funds will represent more opportunities than risks. The project partners sincerely hope that our project and its outcomes will support this positive process.

## MAIN RISK AREAS IDENTIFIED IN NATIONAL RESEARCH

Risks related to the misuse and mismanagement of EU funds can be classified in numerous ways. Our discussions with project partners and the summary of national research and final reports resulted in the following structure of risks:

<p>General environment and conditions</p>	<p>Human resources and capacity</p> <ul style="list-style-type: none"> <li>- Unclear legal status, rules and policies</li> <li>- Anti-corruption training</li> </ul> <p>Missing or ineffective legislation</p> <ul style="list-style-type: none"> <li>- Conflict of interest</li> <li>- Whistleblower protection</li> </ul> <p>Regulations and system setting on national level</p> <ul style="list-style-type: none"> <li>- Regulations, guidelines, (lack of) assistance</li> <li>- Lack of transparency</li> <li>- Political influence</li> <li>- Absorption pressure</li> </ul>
<p>Process and procedures</p>	<p>Planning/programming</p> <ul style="list-style-type: none"> <li>- National priorities and other deviations from the rules</li> </ul> <p>Distribution phase</p> <ul style="list-style-type: none"> <li>- Selection criteria and evaluation</li> </ul> <p>Projects implementation</p> <ul style="list-style-type: none"> <li>- Public procurement</li> </ul>
<p>Control and (lack of) feedback</p>	<p>Mechanisms and capacity</p> <p>Content-based vs. financial control</p> <p>Lack of public control (and public interest)</p> <p>Feedback and information sharing</p>

In the following chapters we describe each identified risk area in more detail, using quotations from individual national reports to illustrate the problem. We also include selected examples of good practice.

## GENERAL ENVIRONMENT AND CONDITIONS

All the four countries and their institutions involved in management and distribution of EU Funds learned a great deal during the first funding period 2004-2006 and many changes and improvements were incorporated in the system for the 2007-2013 period. This programming period benefited from greater capacity and expertise of the institutions engaged, more experienced staff and more clear legal regulations in place. However, there are still many areas within the national systems that require more detailed attention. As all the four countries are relatively small, human resources and capacity remain an issue. Another vital factor in forming the general environment and conditions for the use of European funding is the legislative framework in which, according to the research, there are still significant loopholes (e.g. missing or ineffective regulation of conflict of interest and whistleblower protection). Also a number of overarching issues with negative effect on the entire system was identified, namely the lack of transparency, undue political influence, and the pressure to spend the biggest possible amount of the available resources (“absorption pressure”).

## HUMAN RESOURCES AND CAPACITY

A number of interrelated issues contribute to one of the major problems identified in the research: the lack of competent staff. Especially in case of small countries with limited availability of human resources this leads to higher corruption-related risks (e.g. conflict of interest or revolving door practices) – a problem made worse by missing or ineffective regulation, unclear legal status of institutions/employees and often inadequate HR policy and staff training.

*“In small countries with limited human capital, it is essential for people to be multi-functional which often includes mixing politics with the bureaucracy as much as it includes mixing other functions. ... the small scale of the system requires multiple roles and duties to be played by its people. Civil servants are expected to cope with multi-grade and multi-disciplinary duties. When a smaller number of individuals are forced to play multiple roles in carrying out activity, the chances for conflict of interest rises as well as a greater possibility of things ‘falling through the cracks’ as officials attempt to juggle multiple responsibilities.” – Estonian report, p. 12*

### ***Unclear legal status, rules and policies***

While some problems of attracting and retaining competent staff cannot be easily overcome (e.g. limited possibilities of financial motivation compared to private sector offers), clear regulations defining the legal status of employees, well-defined rules of conduct, long-term and effective HR policy and transparent system of internal evaluation and promotions based on skills and experience should help attract and motivate professional and experienced staff. Retaining skilled employees is vital for keeping institutionalized knowledge in the system as complicated as the EU funds implementation, and for its efficient functioning.

Unclear legal status of the staff working in the EU structural funds implementation system seems to be a problem especially in the Czech Republic and in Lithuania. The Czech Republic still has not enacted its long-awaited Civil service code; all employees (including governmental employees) are governed by Labour Act which is rather generally focused on labour protection, without any legally binding provisions that would establish clear rules of HR management (selection and recruitment conditions, assessment, promotion policy, etc.). A special resolution (Recruitment Guidelines) was adopted by the Czech government, establishing the rules for recruitment of staff engaged in EU funds management, e.g. making transparent selection procedure compulsory. However, the Guidelines do not cover the wider HR issues and do not apply to all institutions engaged in EU funds implementation. While there are some examples of good practice (see below), most institutions – especially on the regional level – would certainly benefit from clear rules and guidelines. Under present conditions, even the regulation of critical issues such as conflict of interest is left to the discretion of individual institutions and their internal policy and tools (e.g. Codes of Conduct).

***Good practice: Complex HR policy and its thorough and effective implementation in the Office of the Regional Council Moravia-Silesia (Czech Republic)***

With the aim of enhancing personnel stability and low staff turnover, the Council management pays great attention to HR processes, from hiring to training to creating a working environment which helps retain skilled and professional staff. All applicants have to pass psychological tests. As a strong preventive measure, the testing includes honesty/integrity assessment. The initial training of the new employees includes topics such as institution culture, code of ethics, principles of communication and fraud and corruption prevention strategy. During the whole career, institutional values are strongly promoted and adherence to the values (summarized in the Code of Ethics) is reflected in personal evaluation. In addition to more general and declaratory code of ethics of the whole operational programme, the Office has its own specific Code of Ethics, which is visibly placed on its website and in which the individual provisions are accompanied by practical examples.

In Lithuania, there are no clear unified standards for the status of staff directly working with EU funds due to different status of implementing institutions. This results in an ambiguous situation both in terms of declaring conflicts of interests, the “cooling off period” and safeguards protecting the staff from undue political influence. As the Lithuanian report points out (p. 14): *“People working in budgetary institutions are either public servants (with all the guaranties and requirements from the Law on Public Service applied) or people equal to the public servants or may be solely contracted on work agreements. Most of the people working in public institutions either have the status of “equal to a public servant” or are solely contracted. This means, for example, that ...not everybody is subject to the duty of filling in the conflict of interests declarations ... and, for example, not everybody is subject to the “cooling off period” of one year.”* Again, much discretion is left to implementing institutions and while there are areas which are generally well covered (e.g. clear rules for gift policy); more complex guidelines on national level would provide much needed assistance.

***Anti-corruption training***

The issue of “staff competence” is often related to the lack of appropriate training. All four national reports draw attention to the fact that in many cases, corruption threats and fraud opportunities

could be much reduced if the staff were properly educated. At the same time, adequate training would help prevent many unintentional mistakes. As the Czech report suggests, there is still *“misunderstanding regarding the nature and content of anti-corruption training. It must be repeatedly explained that effective anti-corruption training not only supports personal integrity but mainly introduces various indicators of fraud and corruption, and also presents corruption situations and their correct solutions and relevant procedures.”* (Czech report, p. 10).

As will be described below, on the operational level the national systems of EU funds implementation often suffer from the lack of clear guidelines and regulations. In combination with the lack of sufficient and effective training, the staff can hardly be expected to recognize the wide variety of corruption threats and manage corruption risks. All implementing structures should pay much more attention to human resource management, including preparation and arrangement of appropriate training schemes, and provide all relevant institutions with assistance in this area.

## MISSING OR INEFFECTIVE LEGISLATION

In most EU countries, regulations for implementing EU funds on every level (from EU regulations to national legislation to specific rules and guidance manuals for individual institutions/programmes) are considered to be rather complicated and there is a general feeling that the entire system is overregulated and overcomplicated. Yet there are still areas presenting considerable corruption risks that are not regulated at all or where the regulation is too vague or contains too much scope for exceptions or discretion. Our research identified at least two such areas: conflict of interest (including regulation of “revolving door” practice) and whistleblower protection.

### ***Conflict of interest***

Even in the countries which have some conflicts of interest regulation in place, many “shadow areas” still remain, especially as concerns clear post-employment restrictions. The length of time limits imposed on activities and future employment after leaving certain positions – “cooling off periods” – should be appropriate to the threats involved. The lack of clear rules enables free movement of individuals between public sector and private companies and in extreme cases leads to creation of corruption-based insider networks, as described by one Hungarian interviewee, a former employee of the implementation system of EU funds, now working in the consultancy sector: *“It is simply impossible to win financial support from the EU Funds in some areas (such as tourism and infrastructure development) without bribing decision makers – and without knowing whom to contact. While corruption has previously been the exception, now it has become the norm in certain segments of the market attracting EU funds.”* (Hungarian report, p. 32).

The Czech Republic lacks clear and complex legislation of the conflict of interest issues, which results in the situation where *“the only tools which can be used for providing guidelines concerning the conflict of interest are Codes of Ethics”* (Czech report, p. 9).

The Hungarian report (p. 30) states that while *“the regulations on conflict of interest are relatively detailed, occasionally the institutional system seems to be reluctant to recognise violations thereof.”* Moreover, there is no regulation of the “revolving door” effect: *“Although it is a widespread phenomenon in the field of EU Funds implementation – officials of the institutions managing EU Funds leave the sector and start their own consultancy business on proposal writing and management of projects funded by the EU ... there is no regulation in place to prevent this.”*

Also in Estonia and Lithuania, the regulation is in place but allows for different interpretations, does not fully cover the problem of revolving door, and leaves many loopholes for the implementing institutions to solve.

**Good practice: Overcoming different requirements to make the relevant information available: “double declaring of interests” (Lithuania)**

Implementing agencies in Lithuania use internal mechanisms to manage the risks arising from potential conflicts of interest. Most of them have internal regulations requiring declaration of the private interests of the staff, including the requirement to notify the executive director if any conflicts of interest arise in their work. The obligation to fill in these declarations is usually part of the work contract. However, under the national regulation which applies to civil servants (or people of equal positions), staff members are obliged to fill in such declarations online, in the Chief Ethics Commission electronic system. In this case, their supervisors and directors may not have access to such data. As an example of good practice to solve this problem, some institutions use “double declaring of interests” system, meaning that the staff members fill in the online forms for the national register as obliged by national laws and at the same time are required to fill in internal declarations of conflicts of interests following internal institutional regulations. This way, these declarations are accessible to their supervisors monitoring the distribution of different projects for staff members, etc.

The Estonian report brings attention to the shortcomings in the existing regulations (p. 13): *“Assets declarations are required to be handed in only by the senior managers ... When the person is planning to leave the position usually there are no restrictions about his/her next workplace. Just in some cases (when the person has supervised certain projects/ programmes) they are not allowed to work for these companies/projects/ competitors during certain period of time (1-3 years).”* The report (p. 18) concludes that while *“the conflict of interest is described in various documents and contracts, finally each expert and official working within the system is responsible for identifying when a conflict of interest exists. It might lead to the situation when there is a thin line between the situation where a conflict of interest occurs and where it does not occur. Even when in most cases the common understanding of these lines is existing, quite a few interviewees were uncertain as to where exactly to draw the line in more specific cases.”*

Besides the need to adopt more detailed national regulation of conflict of interest, all of the above underlines the previously mentioned need for clear guidelines and comprehensive training for the staff of implementing institutions.

### **Whistleblower protection**

The experience of most countries confirms the crucial role of whistleblowers in exposing corruption, wrongdoing and mismanagement in the system of EU funds implementation. Yet the existing

legislation does not provide adequate whistleblower protection. Also the lack of reporting mechanisms and appropriate training/awareness building results in a situation where people are rather discouraged to speak up and report any wrongdoing.

In addition to non-existent specific laws regulating whistleblower protection, there is still a problem of enforcing even the existing legislation, as the Lithuanian report (p. 8) points out: *“There are national legal regulations in place covering fields of lobbyism, corruption related crimes and sanctioning, protection of witnesses. However, there is still a lack of effective whistleblowers protection and the enforcement of the above mentioned laws raises many challenges.”*

In the Czech Republic, with its lack of civil service legislation, the fact that there is no specific whistleblower protection legislation means that civil servants are extremely vulnerable to political or managerial pressure/retribution. As the Czech report (p. 11) bluntly says: *“It is not surprising than that the line public officials working in the EU funds implementation structure are cautious to make public their warning on suspected fraud or corruption.”*

With adequate protection regulations in place, it can be expected that more people would be encouraged to speak up. It is also important to establish reliable reporting mechanisms, provide the staff with relevant information, and generally increase awareness of whistleblowing principles and procedures.

The experience of local branches of Transparency International (TI) in Hungary and the Czech Republic suggests that under present conditions, people are probably more willing to report wrongdoing or discuss the problem with/seek advice from an independent NGO than use the official reporting channels.

#### **TI Czech Republic/Hungary: Experience with whistleblowers**

The Anti-corruption Legal Advisory Centre (ALAC) run by TI Czech Republic has already been approached by several whistleblowers, reporting possible fraud concerning EU funds. Most of the reports were consequently passed on to the police. The Czech ALAC is convinced that broader protection of whistleblowers and promotion of whistleblowing as a valuable tool that helps protect public interest and public resources would result in revealing more cases of EU funds mishandling.

According to the experience of TI Hungary, whistleblowers are often disappointed competitors who were excluded from the market, or former employees of the institutional system who are not in a dependent situation any longer. As the Hungarian report (p. 36) emphasizes: *“Their activity is extremely important as they represent a civil control role, explore corruption cases and call attention to hidden phenomena.”*

## **REGULATIONS AND SYSTEM SETTING ON NATIONAL LEVEL**

Understandably, there are many country-specific problems related to regulations and system setting. We tried to identify some common threats which are described below: lack of transparency, political influence, and absorption pressure. The lack of transparency is undoubtedly the most alarming, as

well as probably the most difficult to overcome. All these issues are interrelated and also interlinked with respective national regulation frameworks. While each country has its own specific problems with missing, inappropriate, overcomplicated, incoherent or overlapping regulations, we want to highlight some more general areas and threats.

### ***Regulations, guidelines, (lack of) assistance***

It would seem that in each country some areas are overregulated while in other areas significant loopholes in existing legal framework and EU funds implementation structure create space for non-transparent procedures and practices. A case in point is the unclear position of consulting firms or consultants in Hungary who act as intermediaries between the beneficiaries and the management system. The risk presented by this unregulated area was identified already in the research conducted when the newly founded institutional system was evaluated in 2005, however, as the Hungarian report (p. 34) states: *“It looks like since 2005 this “grey area” has grown into a wide range of consultancy firms that have corrupt relations to the institutions implementing EU Funds.”* The report describes in detail various manifestations of this phenomenon, which can lead to almost bizarre situations such as the example mentioned in an interview with a person currently employed at an intermediary body: *“In one of the grant schemes I worked on, several companies having close relations to each other (working with the same experts, having shared employees) played a crucial role in the whole process. They were prepping the calls, they shaped the professional content of the grant scheme and later on they took part in the assessment/evaluation of the proposals as well. On the side of the beneficiaries they were presented as consultants, compiling proposals and managing the funded projects. In fact, they were present at all stages of the project, and had a strong influence on it. (Of course smartly alternating their identity, they appeared under a different “logo” in different situations.) They basically carried the grant scheme from the cradle to the grave.”* (Hungarian report, p. 35)

The Czech report draws attention to the issue of internal regulations which should act as a “road map” for every participant in the implementation process – beneficiaries, management authorities, supervisory bodies, investigation bodies. At present, the system suffers from overregulation, especially on the level of operational programmes: there are different sets of regulations, frequent changes in regulations, and even cases of contradiction between national and European legislation. For each of the Czech Republic’s 23 operational programmes, there is a different set of regulations. As the report (p. 12) states: *“... It is fully understandable that improved knowledge of the real mechanism of EU funds implementation as well as experience with numerous attempts to circumvent the regulations and misuse the funds lead to drafting of more precise provisions into internal documentation. Nevertheless, as a result, each operational programme has number of versions of internal regulation accompanied by the list of Guidance letters. This means that those who manage and control the programmes should assess different projects according to different sets of rules. The risk of mistakes and/or manipulation with the projects is thus fundamentally increased.”*

Unfortunately, the experience from other countries confirms the tendency to issue more and more guidelines rather than streamline the regulation and establish some “points of assistance” that would

be able to provide clear answers in case of doubt. As an illustration, we can quote the Estonian report (p. 14) describing the problem of different interpretation of the rules on the example of procurement legislation: *“Quite a few interviewees said that the Procurement Act is overregulated and gives few rights of decision-making to those responsible for giving EU Funds out. Additional guidelines might be long and complicated but as an outcome they still do not give applicants enough information to understand what is allowed and what is not allowed. Interviews revealed that what is the ‘correct’ criteria might be in some cases very subjective and depends on the person who is making the assessment and/or decision. ...This confusing situation may also be the result of differences between instructions and the overarching legislation which has led to confusion and different understanding of what is correct (what costs are eligible, what procedures should be followed, etc.). Thus, in addition to intended mistakes overcomplicated rules and legislation are causing additional unintended mistakes.”*

The Czech report (p. 13) complains that *“... the role of central government (central management bodies like National Coordinating Authority) in streamlining the regulation and establishing binding explanations has been rather weak at the beginning of programme period. This makes situation extremely difficult both for recipients and for auditing bodies.”* The same call for more helpful information and guidance (preferably in advance) is repeated in the Estonian report, which states (p. 16): *“According to the interviews there are also some bottlenecks between managing, paying and auditing duties and/or understanding/interpretations of regulations. It might happen that these authorities interpret the legislation differently and/ or that they interpret the situation in one way but other ministries interpret it in another way.”*

Based on the above experiences, it is probably advisable to have a central institution responsible for harmonising the relevant EU legislation and national legislation, as well as for checking (and eliminating) possible contradictions between national and EU legislation. Also, there should be a central body supervising relevant internal regulations and providing assistance to individual operational programmes management bodies and recipients. At the same time, more systemic and comprehensive training should be organised for management authorities, intermediate bodies and control/auditing bodies to help them fully understand the regulatory framework and procedures to follow when in doubt.

### **Lack of transparency**

The outcome of the research conducted in all four countries involved in the project confirmed the continuing need to enhance transparency in all phases of EU funds implementation as well as to increase general availability of (easily accessible and user-friendly) information concerning the whole system of EU funds distribution. But besides this rather “technical” task, there is even greater need to change the attitude of the public towards the EU funds implementation system.

The research reveals that in many cases, even where there are possibilities for the public to get involved in the planning or monitoring the implementation of projects, such opportunities are ignored. The Hungarian report (p. 30) summarizes the situation: *“Publicity and civil control should*

*have a crucial role in ensuring transparency, however, a devastating experience shows that the general public became inconsiderate and fell into apathy because of too much public talk on corruption going unpunished.”*

The problem of public passivity will be discussed in later chapters. Here we would like to emphasize the need to provide the “active” part of the public (be it individual citizens or various civic associations/NGOs) with easy access to information. As the Lithuanian report (p. 21) says: *“More publicity of the project materials (using the “what’s not confidential should be public” rule) would decrease the risk of corruption in all stages. The possibility to include information about the proposed and reached objectives should be considered for inclusion in the publicly accessible data. Apart from reducing corruption and/or fraud risks, this might also contribute to increasing the trust in the system (according to sociological surveys, people tend to perceive EU structural funds as being a corrupt procedure).”*

**Good practice... or not?: Map of the EU-funded projects (Czech Republic)**

European Commission Representation in the Czech Republic initiated and funded the website <http://www.mapaprojektu.cz/cs/index.shtml> offering visualised presentation of projects co-funded from EU funds, with the aim to provide the general public with an easy tool to see “where the money go” and how many EU-funded projects are being implemented in their neighbourhood. In 2013 almost 16,000 projects could be found on the interactive map through simple search by regions and municipalities. The database is searchable also using other criteria – address, NUTS, name of the project. Each project is briefly described, including basic financial information.

The weak point is that only small part of all the projects funded by EU funds is presented. Management of each operational programme is responsible for feeding the database so that some projects (especially any “suspicious” ones) may not be inserted in the database.

Besides making more information easily available, more attention should be paid to creating systemic opportunities for the involvement of general public or civil society organisations in the entire process. As the Hungarian report (p. 14) reminds: *“Civil representation in the decision making process is an important guarantee of transparency.”*

**Good practice: Civil society representation in the Monitoring Committees (Hungary)**

Monitoring Committees are important bodies in the implementation of EU funds in Hungary. The Committees are the main coordinating and decision making bodies of the Operational Programmes and control the implementation of the programmes.

Different communities of the society and civil bodies are represented in the Monitoring Committees of the OPs wherever their participation is relevant, such as organizations standing for the Roma minority, environmental protection and nature conservation issues as well as disabled people.

**Political influence**

The risk of undue influence is present in every stage of the EU funds implementation. Each country report draws attention to different areas and manifestations of this problem, from general political

influence in the programming stage (selection of priorities, adjusting the system and regulation framework to suit specific political needs, etc.) to various interventions in the implementation and decision making.

The Estonian report (p. 15) points out the problem of protecting the public interest in a system with many interrelated connections: *“In a small country, often no clear distinction can be drawn between politicians and public administrators: all those who work within a small system are in a position to influence it directly. Since it is essential for many people to be multi-functional, this applies to mixing politics with bureaucracy as much as it does to other functions. It is often discussed that Estonian public administration is too politicized and too many decisions are made based on politics rather than on public policies. In reality it is hard to draw a concrete line between them.”*

The Lithuanian report (p. 20) calls for much more transparency and safeguards in the stage of programming and strategic planning as under present system there are many questions concerning the links between national strategies and selected priorities for the use of EU funding, as well as doubts concerning the decisions to fund particular spheres.

At the same time, all the reports state that while there are many examples of undue political influence, it is difficult to prove and investigate the concrete cases. As the Czech report (p. 22) states: *“Perpetrators from management bodies represent the most difficult target group. They consist of political representatives or senior civil servants with extended powers. They are in a position to influence the rules and regulations, they can influence targeting and timing of calls and can also influence the concrete selection procedures. On the other hand it may be risky for rank and file staff to point on their possible misbehaviour.”*

Also the Hungarian report brings to attention the fact that it is usually difficult to prove political influence on decisions, although *“in certain cases the assumptions of political influence and intervention in the decision-making are easy to justify, since beneficiaries have recognizable linkages to prominent politicians.”* As the report (p. 33) concludes: *“Since we cannot prove these very serious statements on particular corruption cases, we are only able to ascertain that according to several interviewees’ accounts, personal connections and the bribing of senior officials in Ministries and related institutions are without any doubt a great help for applications to succeed. The same applies to political interventions in decision-making: we can quote numerous cases and examples in order to confirm the assumptions. Referring to previous chapters, transparent and accountable decision-making at all levels; strict, detailed and consistently applied conflict of interest regulations; quality-based proposal selection, audit and control; as well as publicity and civil control should lead to the decline of these phenomena.”*

### **Absorption pressure**

One of the factors that can lead to significant distortion of the regular procedures is the pressure to spend the biggest possible amount of available resources. With the approaching end of each programme period, the pressure increases to absorb as much of the available funding as possible,

inspired not only by the effort to enhance economic growth and social development but also the prestige of relevant management authorities and/or the government in power.

The Hungarian report (p. 5) warns: *“The absorption pressure leads to solutions that speed up and simplify resource allocation (i.e. centralization in decision making, preference of priority projects, etc.), however, at the same time it increases corruption risks by limiting transparency of decision making, and restricting open competition.”* The report (p. 22) also provides a brief analysis of the problem which may be described as “typical” for all the countries suffering from the same problem: *“Reasons are manifold, ranging from inadequate planning to institutional capacity constraints and absorption capacity issues on the side of the beneficiaries. One of the key reasons was the almost complete freezing of the distribution of funds that lasted a year and a half from the inauguration of the government in 2010. This period of standstill brought significant institutional reorganizations and to a certain extent the restructuring of the programmes. Political pressure to hand out an immense amount of money in a relatively short period, coupled with decision mechanisms that became more centralized and less transparent, again opened strong opportunities for mismanagement and corruption.”*

Absorption pressure greatly increases the risks of the EU funds misuse or wasting the money on meaningless projects. Whenever the rules are being “bent”, the reasons should be clearly explained, and all the more emphasis should be put on transparency of decision-making in every phase of the allocation process, as well as on monitoring of the results.

## PROCESS AND PROCEDURES

Corruption risks seem to be omnipresent in all stages of EU funds implementation process, and all the parties involved seem to be aware of the problem, as is illustrated by the results of a sociological survey quoted in the Lithuanian report (p. 7): *“39 percent of business people claim that procedures of getting financial support from EU funds are partly or very corrupt and 54 percent of public officials claim the same. Also, 59 percent of business people and 58 percent of public officials claim that receiving orders from the state (as in public procurement) is a corrupt or partly corrupt procedure. 22 percent of state officials admitted to having experienced political pressure from politicians for their private interest (20 percent – for the interests of their political parties).”*

## PLANNING/PROGRAMMING

The main risks identified in the first stage – planning and programming on the national level – include establishing the rules and procedures and – even more importantly – establishing various possibilities for circumvention of the rules. Undoubtedly, there are situations and conditions that require specific approach or modification of the rules. Yet in many cases it is very difficult to see the need for/the logic behind the choice of various funding priorities and priority projects that benefit from special (usually much less transparent) procedures.

*In Hungary, over 80% of EU Funds are allocated via the priority project procedure, which lacks open competition. The guidelines pertaining to priority projects represent one of the major loopholes in the regulation and open a wide door to inordinate spending and mismanagement of the funds. (Hungarian report, p. 17)*

### **National priorities and other deviations from the rules**

According to all the reports, the experience from the present programme period raises many questions regarding the strategic planning and selection of priorities, as well as not-too-clear links between planning on the regional and state levels. As the Estonian report (p. 15) puts it: *“A substantial part of the EU funds in Estonia will be implemented based on the national investment plan. According to the interviews the lacking national vision and priorities might create suspicions about how and why certain objects are chosen for the investment. The process how the investment plans on national level are made are not too well explained and understood by different parties. If there is no clear and commonly approved/ understood national strategic vision, it is easy to change priorities on political level and it might increase the risk for (deceptive) political corruption. As it was pointed out by the interviewees the final priorities might have their real roots more in the political programmes and in the promises (to some interested parties) than in real needs based on various analysis.”*

Serious doubts concerning real motivation behind some “strategic priorities” are reported also from the Czech Republic: *“There are a number of so called strategic projects implemented by ministries and other pre-selected public bodies which need not to go through competitive selection process. While this approach may be justified as the best way to reach given development goals, the implementation shows some serious shortcomings. One of the worst examples was so called “Individual National Projects” managed by the Czech Ministry of Education, Youth and Sports. It turned out that the Ministry had no strategy which should be implemented through such projects. Instead the ministry selected number of projects fully arbitrarily, in accordance with personal preferences of Minister Josef Dobeš.”* (Czech report, p. 15)

The Lithuanian report (p. 10) describes the risks involved in the planning process: *“When programming on the national level is concluded, ... a list for potential applicants in planned (“state”) projects is drafted before the calls for proposals. This list is either drafted by the relevant ministry (in the case of state planned projects) or by the council for regional development (in the case of regional planned projects). ... there are no restrictions as to the nature of the subjects included in these lists. ...As opposed to competitive projects, in calls for proposals for planned projects, only companies/institutions from these pre-drafted lists are invited to participate .... Nearly all of the interviewees noted that there is a clear risk of undue influence in this first stage already by drafting programming priorities or conditions for financing favourable for particular fields.”* Based on the interviews conducted within the national research, the report (p. 11) also adds a warning against increased risk of irrational use of public funds resulting from inadequate systemic planning: *“For example, there might be cases where projects even oppose each other.”*

As regards the rules and regulations, there are various reasons why the general rules are subject to modifications and amendments on the national level. While some of them seem to be justifiable (e.g. ensuring the implementation of large infrastructural projects), other reasons are often simply means to an end (e.g. simplifying the procedures to speed up allocation of resources or establishing “special” rules that apply to priority/preferential projects without clearly defining the regulation of/needs for such projects). The Hungarian report (p. 37) draws attention to the question “what makes a preferential project preferential”, especially in light of the fact that in Hungary more than 80% of the resources are allocated through priority projects: *“In this process the projects (investments) are planned centrally, and beneficiaries are not selected through open competition but they are appointed. This mechanism is justifiable in certain cases (such as big infrastructure projects or if there is only one available executor). Similarly to this, obligatory partnerships necessitate the participation of a key institution. But these procedures not only limit competition, but badly lack strict regulations to establish transparency. All this leads to an overwhelming presence of priority projects, unfair preference of certain organizations, non-transparent resource allocation, and the misuse of funds (in some cases financing the maintenance of state institutions instead of real developments).”*

In general, any deviation from regular procedures and open competition increases the risk of non-transparent allocation of resources, unfair preference of certain applicants and potential misuse of funds. Even where there are objective reasons for such irregularity, the whole process should still be governed by clearly defined rules and conditions and fulfil the general requirements for transparency, accountability and quality control. Ideally, as the Lithuanian report (p. 20) recommends: *“There should always be alternatives analysis for the funding form of the project (state /regionally planned or open competition). Also, effective argument behind the lists of potential applicants in cases of state/regionally planned projects should be available with clear description of why these particular applicants were chosen. Also, the legal regulations for drawing the lists should be carefully reviewed ensuring that there is not too much discretion for the public institutions”.*

## DISTRIBUTION PHASE

Whenever the allocation of EU funds is discussed, one of the most frequent complaints would concern the application procedures and the selection/evaluation of projects, claiming that the entire process is too complicated and bureaucratic, with an excessive amount of paperwork which in the end does not guarantee that the best projects are selected. The efforts to establish allocation systems that would ensure objectivity and accountability are often undermined by previously discussed phenomena – political influence, absorption pressure, and various distortions of the rules already in the planning/programming phase. Again, each country included in the research deals with its own specific problems in the process of allocation of the funds to the beneficiaries. Probably the most repeated comment in all national reports was the lack of transparency in selection procedures.

### ***Selection criteria and evaluation***

Based on the research, it would seem that the regulations concerning selection and evaluation procedures are generally well designed. In reality, however, the procedures are complicated and/or

manipulated by various inside and outside pressures, using the gaps and loopholes in valid regulations and relying on the fact that the process still remains to some degree non-transparent. Therefore, every effort should be made to keep the decision-making procedures as transparent as possible, with requirements to explain/justify/make public any deviation from the rules.

**Good practice: National guidelines for evaluation procedures (Czech Republic)**

In the process of planning the new programming period of 2014 – 2020, the Ministry of Regional Development prepared guidelines for evaluation procedures. While leaving open the possibility for different evaluation models, the guidelines set a number of compulsory requirements concerning voting, documentation, etc. The guidelines also include the list of forbidden decisions of the evaluation committee. From the viewpoint of transparency, the requirement of the compulsory publication of the minutes from evaluation committee meeting, which must justify any change to expert numerical evaluation, is especially important.

Many reported examples of bad practice concerned “simplified” schemes of allocation that were specially designed to achieve a certain purpose and did not follow generally binding procedures and rules. Any simplification of procedures should be well justified and well thought out; otherwise it may not only create a whole new set of problems but also further damage the reputation of the EU funds implementation structures. The Hungarian report (p. 20) provides a case in point:

***An example of the adjustment of regulations in reaction to a special situation in proposal selection (Hungary)***

A grant scheme of 15 billion HUF (approx. 54.5 million EUR) for supporting innovative developments in schools was launched in 2012, based on the simplified, automatic evaluation scheme. (“All administratively complete applications are awarded automatically without evaluating the content; they are rated only by the date of submission”). The submission period had originally been 5-18 October 2012, but the submission was closed already on the first day, because the total fund request of the submitted applications exceeded the available funds of the scheme. The relevant legislation states that in the event that the requested funds exceed the available sum, the submission has to be closed and the applications received prior to the closing date have to be awarded.

In the case of this grant scheme the funds requested by the applicants on the very first day of the submission period exceeded the available resources more than six times. Since the applications were not subject to a content-based assessment, the existing operational guidelines did not provide suitable tools for selecting the applications to be awarded. One option would have been to cancel the grant scheme and not award any of the applicants, but the funding system was already under serious pressure to speed up contracting towards the end of the programming period. The government adopted resolution addressing this particular issue, instructing the NDA to conduct a lottery certified by a notary to establish the order of submission of applications and then select the awarded applications based on this order, up to the limit of the available funds. This government resolution introduced an operational procedure that applied also to projects underway, i.e. with retroactive effect. The procedure had not existed the moment the grant scheme was launched, was not referred to in the documentation of the scheme and despite the instruction included in the resolution – it has not been embedded in the relevant legislation since it entered into force.

This case also reveals how regulations in place can be overturned – when peculiarities of individual cases so need – by introducing special provisions to legalise procedures ex post facto.

## PROJECTS IMPLEMENTATION

All four national reports agree on the fact that the weakest area of implementing EU funds is public procurement. It comes as no surprise, considering that public procurement is seen as a particular area of concern all across Europe (Transparency International's analysis of corruption risks in Europe<sup>2</sup> aptly calls it "a corruption risk hotspot").

### **Public procurement**

Public procurement is too broad a problem for the scope of this project and it has been given fundamental attention in previous projects sponsored by OLAF in the Czech Republic and other participating countries. However, this report cannot ignore the problem as public procurement clearly plays a crucial role in the allocation of EU funds.

Despite all the attention and efforts to improve procurement rules and practices, corruption risks still seem to be widespread. The complexity of legal framework (from EU Directives to national legislation and internal guidelines) creates a huge administrative burden but still allows space for bypassing the rules and leaves some areas unregulated, with devastating results and significant financial losses. As the Hungarian report (p. 26) says: *"The Public Procurement Act does not introduce fair and transparent procedures. Recently, yet another analysis has drawn attention to the fact that 85 percent of the big value public procurements are infected by corruption. ... Even the newest amendment to the Public Procurement Act fails to offer a solution to the loopholes in the system, leaving several ways to escape from the rules or the consequences of procurement procedures..."*

The Lithuanian report (p. 8) quotes the alarming results of the survey "Transparency in Public Procurement 2008", in which half of Lithuanian businessmen (48 %) admitted to having at least once decided not to participate in public procurement tenders because the winners were known in advance. According to them, the corruption risks are already apparent when preparing the qualifications (66 percent) and technical specifications (62 percent). The report also summarizes the findings from its own research (p. 16): *"According to the interviewees, the procurement is the most problematic issue for a variety of reasons. First of all, the national legislation is very complex – both the Law on Public Procurement and the regulations on procurement for non-purchasing organizations... Second, the national context... presupposes that there are certain risks on the national level that affect the implementation of EU funds as well: public procurement seems to be one of the most corrupt procedures. A variety of particular issues have also been underlined during the interviews: lack of planning (lack of sufficient market analysis, insufficient costs-benefit analysis, lack of experience of the purchasing or non-purchasing organization staff). Apart from these, there are also cases of different deliberate infringements."*

In Estonia, the law on public procurement is considered to be very confusing and the processes so bureaucratic and demanding that "many public institutions do not possess the required level of knowledge" (p. 20). The complexity of regulation may be reflected in high percentage of violations of the rules. According to the Estonian report (p. 11), *"in 2012 there were 185 violations or possible violations which resulted in an approximate financial cost of 30.6 million euro. Most of the violations were detected by the final beneficiary and were related to rules of procurement (124 cases)."*

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<sup>2</sup> Money, politics, power: Corruption risks in Europe, Transparency International, 2012.

As was mentioned above, public procurement was deliberately taken out from the scope of the present project. Nevertheless, all four studies revealed that problems associated with public procurement remain the most serious single issue connected with EU funds implementation, be it caused by too complicated legislation easily bypassed by political decision, cartel behaviour of suppliers, or the lack of qualified staff. In any case both the EU and individual member states should devote sufficient attention to this issue in future.

## CONTROL AND FEEDBACK

This third group of risks describes the risks related to ineffective control and auditing mechanisms and the lack of capacity or expertise among the staff of implementing and control institutions. All four national reports draw attention to the fact that most controls/audits are merely focused on financial aspects. Much more emphasis needs to be put on the qualitative aspects of project implementation to prevent waste of resources on meaningless or overpriced projects.

Two other issues are closely related to the problem of efficient control and monitoring of EU funds allocation and projects implementation: enhancement of public control and much better use/sharing of the experience and findings within the entire EU funds management structure.

## MECHANISMS AND CAPACITY

All the four countries have complex controlling and auditing systems and procedures in place. Indeed, as the Czech report (p. 18) says: *“System of irregularities reporting, internal management control, audit from different national and EU bodies is complex and rather extensive. Staff of implementation system bodies often complains that they are “over-controlled”, and that several auditing bodies came to control something at the same time.”* The same experience is confirmed by the Estonian report (p. 13), which recommends changing the system so that more emphasis would be placed on mid-term evaluations: *“The interviewees also emphasized the importance of mid-term evaluations which are not too often carried out in Estonia. Since evaluations focus more on advise about how to improve the systems (not specifically on finding mistakes) they could help identify problems at an earlier stage and thus help staff to learn. In addition, reports might bring out viewpoints that cannot be seen in everyday work... According to the interviews most of the people working for the system of implementing EU funds are sharing the common standpoint that there are too many audits carried out in Estonia currently. Often one audit is just ending when another audit is already starting. Thus, if the system could be changed towards having more mindful mid-term evaluations focusing on improvements of the system and fewer audits (e.g. even while combining or coordinating them better), it would be more useful for the system.”*

Already in the implementation phase, control procedures seem to be designed with the aim to minimise corruption risks (on-sight visits/controls, “four eyes” principle in decision-making process, involvement of external experts etc.).

**Good practice: Randomly assigned project leaders combined with “four eyes” principle (Lithuania)**

In Lithuania, most implementing institutions organize their work by having one project leader who is responsible to lead a particular project from the calls for proposals and selection procedures to the reporting stage. Project leaders are assisted by other departments and staff members accordingly. For example, different people join them to process the requests for payments, conduct on-sight visits and so on. The principle of “four controlling eyes” is applied to reduce the risk of corruption and mistakes (at least two staff members are sent for the on-sight visits, at least two people check the requests for payments, etc.). To reduce the risk of corruption, all institutions apply a random process of assigning particular projects to different project leaders and this can be identified as a good example of reducing the risk of the “human factor”.

However, already on this level one of the major problems arises: insufficient capacity and/or qualification of the staff executing such controlling activities. Lithuanian report (p. 18) summarizes the problem: *“The on-sight visits are conducted frequently by all implementing institutions in projects where it is possible ... and are considered to be a form of additional control. It is obligatory – with minor exceptions – to conduct at least one on sight visit during the period of project implementation. In some cases, however, it has been noted that the nature of the project is very technical and the staff of the implementing institutions may not be able to detect potential irregularities themselves. Due to financial reasons hiring external experts might be complicated and in these situations the risks persist. The procedures of approving the requests for payments are considered to be a form of constant monitoring and evaluation, however, most implementing institutions agree that this is more financial control of eligibility of expenditures than a form of overall control.”*

The Estonian experience is similar: *“In most cases the authorities have resources and knowledge to control the papers, expenses and receipts, the content and outcome of the projects are not so much in the centre of attention. This means that for the controllers the forms of the documents and eligible of expenditures are often the most important aspects of the controlling.”* (Estonian report, p. 18).

Disproportionate emphasis on financial/administrative details rather than content-based control will be discussed below. Here we want to focus on the problem of lacking competence and capacity, which concerns also the auditing bodies, and in the end has a negative effect on investigation and prosecution of fraud and corruption.

The Czech report (p. 18) says: *“Lack of experience and low qualification leads to focus on insignificant details and omitting the fundamental issues. Small administrative mistakes (e.g. breaking of publicity rules) are reported while the major issues like conflicts of interest, insufficient targeting of the whole operational programme or its axis, or lack of measurable monitoring of results is neglected.”*

Lithuanian report (p. 17) draws attention to the lack of resources/capacity: *“... the external control bodies, according to the interviewees, sometimes seem to simply lack the resources to detect and investigate all risks. This seems to apply for both the Public Procurement Office which does not have a separate department for EU funds and oversights tenders in EU funded projects based on the internal risk assessment system, and the Financial Crimes Investigation Service (“sometimes it seems that the Financial Crimes Investigation Service just does not have enough people”).”*

Also in Estonia, the lack of capacity seems to influence the efficiency of fraud investigation: *“...the agencies are encouraged to contact police. Still, most agencies are not too keen and active to take*

*advantage of that. They are not used to turn to the police or they might not have enough resources for that. Then again, quite a few cases discovered by the police show that the situations have become so complicated that without additional resources of police it would have been rather impossible to discover the fraud.” (Estonian report, p. 19)*

Involvement of external experts/auditors may help solve the problem of inadequate staff qualification or capacity. However, it means further financial strain and according to national reports, many institutions simply cannot afford hiring external experts.

***Good practice: Thorough external audit helps fine-tune operational mechanisms (Czech Republic)***

In certain situations the whole management structure of operational programmes is under such strong political influence that internal controlling bodies are not able to provide relevant and reliable feedback. In such situation commissioning external audit of the whole operational programme or its parts represents a very good option. Such external audit can assess level of irregularities of the whole system and evaluate decision making procedures and controlling systems. In 2012 the Czech Ministry of Finance commissioned one such external audit at the Regional Operational Programme North West. The audit was executed by Deloitte Advisory and revealed that the Office of Regional Operational Programme committed serious mistakes in all 35 examined cases. Based on this alarming outcome, some radical changes were adopted. This external audit helped significantly improve the operational mechanism of the Operational Programme.

## CONTENT-BASED VS. FINANCIAL CONTROL

All four reports warn that many control and audit procedures are rather formal, concentrating on administrative details, compliance with legislation and regulations, correctness of financial data and accounting principles, etc. The lack of content-based control focused on qualitative aspects of project implementation and evaluation of economic return increases the risk that money will be wasted on properly administered projects that have very little or no meaningful outcomes. The fact that all parties involved in the implementation of EU funds seem to be aware that the audit/control function is mainly concerned with formal aspects encourages various forms of fraud or mismanagement of funds. The Hungarian report (p. 28) draws attention to the “newest form of corruption... linked to adult education”:

***An example of the entire line of services at risk of fraud (Hungary)***

Due to the nature of the training services the field is at risk of fraud: it is difficult to set precise standards to assess whether the aims of a given training programme have been achieved and to evaluate the quality of the training itself... When EU funds came into sight on the adult education market, administrative “document factory” grew in size and importance. A game of these dimensions can only be maintained if all actors get an adequate share of the pie: the trainers, the procurers and the participants of the trainings as well. Due to the strict administrative rules of the projects funded by the EU, the final beneficiaries have to comply with the administration, e.g. sign attendance sheets in order to be legally eligible for financial support. However, nobody ever assesses if unemployed people did really participate in the trainings or the sheets of attendance concerned were forged. Only a smaller fraction of the EU funds reach the target groups, while a more significant part lands at the training service providers and in the pockets of the procurers, often NGOs with a

mission to support disadvantaged, unemployed people. Thus, even though the funds are not targeting the training organizations themselves (the real target group is unemployed people), a meticulous administration ensures low risk and high profit for numerous organizations.

Especially in the areas where social issues are targeted (education, unemployment, etc.), monitoring and control should be much more focused on qualitative indicators as is proved by the Czech experience: *“The Supreme Audit Office (SAO) of the Czech Republic under new president Mr. Kala also started to give much more attention to control how different projects met declared targets. In a number of cases they identified situations where targeted indicators were set completely wrong. For example, some targets were fulfilled by natural social process even before the start of any project intervention. Such SAO audits represent an important impetus to more responsible and deliberate target setting.”* (The Czech report, p. 20-21).

All the four national reports criticise the lack of emphasis on value-for-money principle in the entire process of EU funds allocation (from project selection to evaluation/control of outcomes). The Lithuanian report (p. 19) highlights broader benefits of having economic return analysed (and making such analyses publicly available): *“The lack of evaluation of economic return (or not enough quality in the ones conducted) not only may lead to the irrational use of funds and distort the market, but also create environment for corruption. If such analyses were conducted and published, it could potentially answer many questions that are now raised as regards to the decisions of funding particular spheres. Also, it might be useful in assessing the effectiveness of particular agencies.”*

In this context, the Hungarian report (p. 28) mentions one other problem: *“If the value-for-money principle is not assessed during control procedures and projects can be realized without the pressure to ensure high quality and meaningful outputs, a significant fraction of the grant can be used for non-project-related costs (hidden item costs) with the help of some “creative” administration and accounting, a practice to which legal provisions on fraud apply in many instances.”* However, the report also brings attention to the fact that sometimes such “creativity” comes as a result of too rigid financial and accounting rules (p. 27): *“Some costs are not eligible or only to a very limited extent. This is the case for the costs of presenting the proposal, and of project management, however these are necessary for the beneficiaries, since they are often short of proposal writing and project management capabilities. Therefore the beneficiaries are “forced” to report falsely (hide these costs in other categories) as they need to pay the consultants.”* As the need to “hide” this sort of non-eligible cost is also mentioned in other national reports, it is probably one of the areas that should be devoted more attention, to prevent wider use and acceptance of such “necessary creativity”.

## LACK OF PUBLIC CONTROL (AND PUBLIC INTEREST)

As was already discussed, one of the biggest problems in all the four countries is the lack of transparency in the entire process of EU funds allocation. The research confirmed that access to information and relevant data/decisions/analyses is still limited. Although there are some positive examples of efforts to increase accessibility of information and involvement of civil society in the process, in many cases they are initiated rather by various NGOs than by the system itself. It seems that most implementation structures are still inclined to operate “within their own closed world” and ignore the comments and input from the outside even if they allow any public debate. The Hungarian

report (p. 35) illustrates the point: *“The National Development Agency [central institution in charge of distribution EU funds] operates a subpage on its website aimed at fostering public debate on all planned grant schemes. The site allows anyone to follow the planned calls, comment on them and see all other submitted opinions as well. Comments are collected in a given time-frame and replies from the experts involved in the planning of the call are published before the scheme is launched. Experience shows that the calls remain basically unchanged even if they are challenged considerably in the public debate.”*

Based on such experience, it is not surprising that the public loses interest to get involved and has a tendency to see the entire system of EU funds allocation as corrupt – a sad fact that is confirmed by many public opinion surveys. The questionable quality and value of available information does not help in changing the negative perception. The Lithuanian report (p. 19) says: *“... it is important to note that the amount of information available publicly does not allow evaluating the success of a particular project externally (without connecting to the internal informational system). The summaries on particular projects do not include basic information of what were the initially proposed criteria and objectives and how many of these have been actually implemented during the project duration.”*

The resulting general public passivity leaves the field to various groups and individuals that “understand the system” and use their knowledge to their own benefit as well as opens the wider possibilities for fraud and mishandling of the funds. All the implementing structures should therefore actively try to engage the public in all the phases, from planning to control. In this effort, they can use and build on various existing public society initiatives as positive examples of such activities can be found in each country.

**Good practice: A recently established blog collects corruption cases related to EU funds (Hungary)**

As an opposite example to public apathy, a new blog on EU funding cases was recently launched by some professionals (<http://papirkapitalizmus.wordpress.com/>). The bloggers introduce themselves as stakeholders in this field: company managers, proposal writers, or staff members of the planning and implementing institutions. They collect concrete cases, positive and negative examples related to EU source allocation. This is also a promising initiative increasing transparency, publicity and civil control of the EU Funds implementation.

**An example of NGO initiative to increase transparency (Czech Republic)**

The aim of the web portal “Fondyeu.eu” (<http://www.fondyeu.eu/>) is to increase the level of transparency and information about beneficiaries and their projects. Open project database prepared by NGO “Naši politici” (Our politicians) combine data on supported projects with data from business register. The website enables a simple and user-friendly search and linking of detailed information concerning beneficiaries and supported projects (who is the recipient of EU funds, for which projects, what amount). Data can be linked with business register and public procurement register so the visitor can see who is a beneficiary of EU support. There are also links to the database of active politicians, which helps bring to light possible conflicts of interest or any undue political influence.

## FEEDBACK AND INFORMATION SHARING

The outcomes of our research as well as the abundance of other existing studies and analyses raise doubt about the ability (or willingness) of the implementation structures to learn and make use of all the experience collected during the previous programming periods. As the Estonian report (p. 19) says: *“In general, institutional capacities have increased in Estonian public sector, though abilities and willingness to cooperate among public institutions is not still too high.”* The Czech report (p. 25) highlights the problem on operational level: *“Lessons are only seldom learned from previous mistakes. There are numerous changes in staff so there is low institutional (or program) memory, there is no sufficient capacity for analysis of past mistakes, frauds and irregularities and transforming them into recommendations. Experience from one operational program is usually not transferred into others.”*

Enhanced institutional cooperation on both national and international level would greatly contribute to much needed improvements of the process and procedures. On national level, one of the greatest challenges seems to be the efficient use of the control and audit findings regarding the system, monitoring and financial management. Such feedback is of utmost importance not only for the relevant controlled and audited bodies but for all other management authorities and the findings should be used centrally to improve the system for the upcoming funding period.

Sharing of expertise, examples of good/bad practices, and effective preventive tools and measures is important also on the international level, in the entire EU funds implementation system. Considering the immense importance of experience sharing, necessary capacities should be developed to facilitate such work. Technical assistance should be used also on analysing past mistakes and converting them into e.g. training programmes.

## CONCLUSIONS AND RECOMMENDATIONS

The experience of all the four countries involved in this project reveal that the implementation of EU funds still entails substantial corruption risks that endanger efficient allocation and usage of resources. In this summary report, we tried to include recommendations and examples of good practice in individual chapters which discussed specific problems. Some more general recommendations are presented below. More detailed information can be found in the four individual country reports.

Here we would like to draw attention to two interconnected issues that probably do not seem so “critical” from the viewpoint of fraud and corruption but in the long term can have their own devastating effects: public participation in the process and public perception of the entire system of EU funds implementation. As the Czech report (p. 17) states: *“For many people, EU funds represent a symbol of bureaucracy, non-transparent practices, nonsensical activities and waste of money. This image is supported by the media who are much keener to present negative information and examples of misuse of the funds than any positive reports. Therefore it is becoming ever more important to come up with new and innovative ways of presenting EU funds to general public, not only to show the usefulness of project results for citizens but also (and most importantly) to help engage the general public in strategic decision making and programmes monitoring.”* The report includes examples of such efforts to encourage the general public to get more involved and interested in the projects funded by the EU (e.g. photo contest organised by the Czech Ministry of Regional Development, informative channel on YouTube, and the “Best Entrepreneur” award organised by the intermediate agency CzechInvest).

Rather negative perception of EU funding schemes is confirmed by all the national reports, as well as the damaging impact of such perceptions on the willingness of general public or civil society organizations to engage and actively participate in the process when such opportunities are provided (public debates, involvement in monitoring activities, etc.). The Hungarian report (p. 39) says: *“The importance of civil participation and publicity is inestimable. The disappointing experience is that there is a public ignorance; most people have become overwhelmed and fell into apathy ....”*. The report also draws attention to the other aspect of the problem: *“Public debates over the planning documentations are also ineffective, since the procedures are rather formal.”* We believe that more attention should be paid to these issues on the national level as the enhancement of public participation may significantly help reduce the risks of mishandling the funds.

As the new funding period is to start in 2014 there is still time for all the implementing structures to adjust the system and make necessary changes that will improve its efficiency. To this end, we include some general policy recommendations:

### 1. Transparency of procedures and public availability of information

In preparing national reports, all the project partners encountered difficulties in finding relevant information concerning concrete projects and their outcomes, as well as clear documentation and explanations of decisions in selection/planning phase, etc. The main recommendation therefore remains to ensure free access to more detailed public information related to projects financed by EU

funds and the decisions of various decision-making bodies. In this context, the crucial issue is transparent and accountable selection process.

## **2. Monitoring, control and audits focused on quality**

All the reports confirm the need to examine the real impact of the projects, and to take into consideration the “value for money” principle already at the selection phase. Thorough, content-based control and evaluation of the projects would help reduce the number of meaningless projects and limit other ways of misusing the EU funds.

## **3. Conflict of interest**

In all countries involved in the project, more detailed conflict of interest regulation is needed. Special attention should be paid to the “revolving door” practice. Also, the regulation should apply to a wider range of actors.

## **4. Use of feedback and experience sharing**

The country reports confirm one other common disturbing aspect: despite the fact that there exist many valuable analyses and abundance of experience and lessons learned by all actors involved in the system, all this feedback is only seldom used to improve the efficiency of the EU funds implementation. Both on the national and international levels, more attention should be paid to developing capacities for sharing of expertise, good and bad practices, and effective tools and measures that help prevent EU funds misuse.