



21<sup>st</sup> August 2023

MEFL/EF Circular No 1/2023

To: Permanent Secretaries

**Re: Conflict of Interest and Action against Fraud and Corruption**

As referred to in the MA Circular 4/2022 issued by the Permanent Secretary EU Funds on 15<sup>th</sup> December 2022, during the past few months, audit teams from the European Commission and from the European Court of Auditors have undertaken a number of audits of the systems put in place by the Maltese authorities to manage the implementation of projects that benefit from EU funding. The audits identified areas for improvement in the procedures and projects that were audited. Furthermore, the audits proposed recommendations for consideration and adoption by the Maltese Authorities, soliciting firm, concrete and unequivocal policy responses by national authorities to effectively address the areas requiring a bolder oversight.

The areas requiring further attention spanned the whole project design and implementation cycle. Weaknesses related to the prevention, identification and mitigation of conflict of interest, together with stronger action to detect, prevent and mitigate the incidence of fraud and of corruption recurred with a sustained degree of frequency in the audit reports.

To this end, this Ministry has communicated with the EU audit authorities to explain policy interventions that will enhance the accountability, transparency and effectiveness of the measures in place to protect the financial interest of the union and of the member state when it comes to the implementation of EU-funded projects.

The communication by the Ministry with the EU audit institutions has devoted specific attention to measures and initiatives clustered around two themes highlighted by the EU audits, namely:

1. Strengthened checks against conflict of interest throughout the design and implementation of projects including, though not only, the procurement phase; and
2. Checks and control intended to identify fraud and corruption and that provide for timely and effective interventions to neutralise the negative effects of fraud and corruption.

**Conflict of Interest:**

Primarily, in line with Article 61 of the Financial Regulation (EU, Eurotom) 2018/1046 of 18<sup>th</sup> July 2018<sup>1</sup> the Ministry responsible for EU Funds would like to remind all Line Ministries/Beneficiaries of the obligation of all the officers involved in EU Funded projects including members of the Evaluation Committee, Tender Drafters and Tender Originator's Form signatories to sign a Declaration of Conflict of Interest vis-à-vis their role within a particular contract within the context of the bids received.

To this end and as a result of the recommendations put forward by the EU audit institutions and further to MA Circular 4/2022 on 15<sup>th</sup> December, Line Ministries are being reminded of their obligations to strengthen and carry out checks against conflict of interest throughout the design and the

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<sup>1</sup> Financial Regulation (EU, Eurotom) 2018/1046 of 18th July 2018 on the financial rules applicable to the general budget of the Union.



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implementation of projects. Annex I is being attached to this Circular with a view to outline the most important stages and processes Line Ministries and Beneficiaries responsible for the implementation of EU-funded projects are obliged to go through to ascertain that officials involved with any aspect, not just procurement-related, of EU-funded projects exercise their respective duties. This will be done to achieve this objective in a transparent and accountable manner, and in a way that is free from any conflict of interest which, if present, will erode the principle of equal access to the benefits which EU-funded projects generate. It is worth mentioning that Annex I of Circular 4/2022 which relates to the template to be used by Line Ministries for verification of the Declaration of Conflict of Interest of the project team and the Evaluation Committee members etc. is being updated by the attached Annex I including additional elements.

Care and diligence have been exercised in the drafting of the document attached in Annex I, in an effort to provide a guideline to Line Ministries and Beneficiaries on the level of checks that need to be carried out by Line Ministries regarding the subject in caption. It is important, nonetheless, to stress that this checklist and annexed templates do not intend to represent a comprehensive or exhaustive list of checks each Line Ministry should put to practice. At no point should the checklist be considered to be a substitute for a Ministry's unbiased, diligent and thorough assessment of the implementation process of any EU-funded project. Indeed, this annexed template is being presented to the Line Ministries as a guideline to both Line Ministries and Beneficiaries on the level of obligatory checks that need to be carried out by Line Ministries in relation to Conflict of Interest.

### Action against Fraud and Corruption – Fraud Risk Register and Assessments

In addition to the above, and as you are aware, the Office of the Prime Minister had published Circular No 1/2016 on 14<sup>th</sup> January 2016 (<https://iaid.gov.mt/en/Documents/Legislation/OPM-Circular-No-1-2016.pdf>) to solicit Line Ministries and their departments to develop a Risk Register that identifies, assesses and manages risks inherent to a Line Ministry's operations.

You are therefore being reminded that in preparation for the compilation of the Fraud Risk Register, each Ministry is to ensure that a fraud risk assessment for EU funded projects is in place identifying those aspects of the operations that are being implemented that are most prone to fraud and corruption. This fraud risk assessment is the process that leads to the compilation of a Fraud Risk Register whereby the former is essential to develop a comprehensive Fraud Risk Register as requested in the Circular No.1/2016. Annex II to this circular explains in detail how to conduct the fraud risk assessment and how to draw up the fraud risk register.

As a result of the compilation of the Fraud Risk Register whereby specific Fraud Risks are highlighted, **a number of mitigating controls need to be included for every specific Fraud Risk**. The recommendations/obligations coming out of this circular can also be included as mitigating controls for the relevant risks relating to fraud, corruption, conflict of interest etc. Further mitigating controls that might be applicable to your respective scenarios feature in Annex III. However, it is of utmost importance, that following the compilation of the Fraud Risk Register including the respective mitigating controls, the Line Ministries are obliged to **implement and put into practice** these mitigating controls that come out from the Fraud Risk Register.

In view of the importance which EU funding represents to Malta's further administrative, economic, and social development, and in view of the recent emphasis the EU Commission has placed on this



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area to EU funding in beneficiary States, including Malta, it is critical that every Line Ministry complies with the above.

A handwritten signature in blue ink, appearing to read 'Jonathan Vassallo', written in a cursive style.

Mr Jonathan Vassallo

Permanent Secretary EU Funds