



Ministry of Development, Public Works, and Administration

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INSTRUCTION No 5

To: Lead Partners of the Programme Interreg Romania-Ukraine

Having regard to the provisions of art. 1.11 of the grant contract, related to the right of the Managing Authority to issue mandatory instructions,

Considering the need to ensure flexibility during implementation of projects and a proper understanding of the provisions of Article 15 (Amendment of the Contract) of the Grant Contract, the Managing Authority issues the following:

INSTRUCTION

Article 1

Any request for changing the contract provisions (by means of a Notification or an Addendum) must be submitted to the MA only after the Lead Partner has consulted all project partners.

Any modification whatsoever of the grant contract, that could result in non-compliance with the expenditure commitment set out in Article 5.12, may be requested by notification or by addendum, only after duly assessing by the Lead Partner and the partners of the potential impact of such revision on the value of the expenditure commitment referred to in Article 5.12 of the Grant Contract.

Article 2

Amendments considered major changes may only be made by addendum to the Grant Contract, and they may require also prior approval from the Programme's Monitoring Committee, as detailed in the Article 5, below.

The Managing Authority or, where applicable, the Monitoring Committee have the right to refuse proposed amendments to the Grant Contract where no justification has been provided, where such justification is deemed unacceptable, or where the amendment would jeopardize the achievement of the Programme's objectives, including the delivery of its output and result indicators.

If a proposed amendment is refused by the Managing Authority or the Monitoring Committee, the Lead Partner may not resubmit the same request.

Article 3

An amendment of the contract, requested according to article 15, shall be valid as follows:

- from the day the **Addendum** enters into force (by signature from the last party)

or

- after the JS gives acceptance in JeMS for the modifications proposed in the **Notification** letter.

Article 4

According to art 15.4 of the Grant contract, changes which do not alter in a significant way the project and are not contrary to the principle of equal treatment of the beneficiaries, may be performed by means of a **notification**.

In addition to those listed in art 15.4 of the Grant Contract, the modifications may include, without being limited to, the following:

4.1 Change of the name of Lead partner/Partners, without changing the corresponding identification number of the entity (e.g. fiscal registration number);

4.2 Changes in the Work plan

Minor changes in the Work plan mentioned by art.15.4 of the grant contract may be related either to a change of format or to rescheduling of activities/deliverables, and may be done provided that do not affect the project intervention logic (i.e. project objectives, outputs, results), do not impact on the total project duration.

The expenditure commitment as per 5.12 of the grant contract cannot be modified.

Examples: reschedule of activities within the same reporting period or within the same half of the implementation period, change of the location for the planned workshop, shifting physical meetings/events to on-line, etc.

Change intended to compensate delays due to non-efficient project management cannot be accepted by the Programme.

Accelerated spending does not represent change of the project's / partner's budget which requires notification or addendum to the grant contract. Partners are encouraged to take all the measures to ensure timely project implementation.

4.3 Change of the project teams

If staff costs represent a *flat rate*, modification of the project team is the sole responsibility of the respective Partner, provided that the project is implemented according to the grant contract.

4.4 Adding new budget lines within the same heading

The change is possible by means of notification, provided that partners do not add new deliverables, outputs or results to the project and, following insertion of new budget lines, the variation of the respective heading is less or equal to 20% of the initial contracted amount.

4.5 Transfer between main budget headings involving a variation of 20% or less of the initial contracted amount in the source budget heading

Transfer between main budget heading involving a variation of 20% or less of the initial contracted amount in the source budget heading, not having a major impact on the budget as foreseen by art 15.4 of the Grant Contract are allowed by means of notification,

Reduction of budget lines and transfer of amounts to another heading, in whole or in part, may only be considered if the partners concerned have already concluded procurement contracts with a value that is lower than the amounts initially budgeted, and savings identified by respective partner are certain. Market research and price offers are not sufficient to justify reduction of budget lines.

The Lead Partner/ Partners shall operate the modifications listed above as soon as a new modification request is opened in JeMS by the JS.

Article 5

Changes which have a major impact on the latest approved JeMS version of the project shall require the signing of an **Addendum** to the contract by both the Managing Authority and the Lead Partner.

The purpose of the addendum must be closely connected with the nature of the project covered by the initial contract or the latest approved version of the grant contract, as applicable. No modification to the contract may alter the award conditions prevailing at the time the grant was awarded. The changes cannot be contrary to the principle of equal treatment of projects and its partners.

Changes requiring an Addendum may be as in the indicative list below:

5.1 Changes of the duration of project's initial implementation period (extension of the implementation period).

The extension of project duration should be requested only in case of unavoidable circumstances likely to hamper or delay the implementation of the project and only in the conditions set by art 16 - *Extension and Suspension* of the Grant Contract.

Implementation delays resulting from a faulty project management cannot entitle the partners to request, and the Programme to approve, project extensions.

Extensions may only cover a limited number of months, as specified in art.16.17 of the Grant Contract

The final date for eligibility of expenditure (including payment) of projects is 31st of December 2029. All expenditure incurred or paid after the respective date cannot be declared and shall be supported by the Lead partner and Partners from their own budget.

Extension of the implementation period of the project requires prior approval of the Monitoring Committee.

Accelerated implementation does not represent a major change of the work plan which requires formal approval from the Program's side.

Partners are encouraged to take all the measures to ensure timely project implementation. As provided by the grant contract, they shall report accordingly on the progress made.

5.2 Changes in the partner's organization or replacement of a partner in the project

Changes may include replacing of a partner or structural/legal change.

Changes may include replacing of a partner or structural/legal change such as: name (with changing the identification number of the institution), location (town, city, village, etc), change of legal status. Also, in case of legal succession, if there will be more than one legal successor, this change will be treated as a change in the partnership and verified accordingly,

with prior assessment of the partnership and of the eligibility of the new organization. The new proposed organization or the reorganized entity still needs to fulfill all the eligibility conditions applicable at the date of submission of the project in JeMS.

Change of location of investment, as well as change in partnership requires prior approval by the Monitoring Committee.

5.3 Transfer between main budget heading involving a variation of more than 20% of the initial contracted amount in the source budget heading

Projects may in exceptional and duly justified cases request for reallocations of costs between budget headings (only for direct costs) of more than 20% of the initial contracted amount in the source budget heading. The reasons for modifications have to be very well justified and the Lead Partner/Partner have to clearly demonstrate on necessity for funds reallocation and the impact/consequences those changes may bring to the project's overall performance (in terms of project duration, planning of activities, delivery of outputs/results and achievement of the specific objective).

Reduction of budget lines and transfer of amounts to another heading, in whole or in part, may only be considered if the partners concerned have already concluded procurement contracts with a value that is lower than below the amounts initially budgeted, and clear savings were identified by respective partner in the project budget are certain. Market research and price offers are not sufficient to justify reduction of budget lines.

The Lead Partner/ Partners shall operate the modifications listed above as soon as a new modification request is opened in JeMS by the JS.

5.4 Reallocation of costs and activities between partners

In case of reallocation of activities between project partners that leads to a reallocation of funds between project partners, the partnership agreement shall also be modified.

Transferring part of a partner's budget to another partner will not be approved without consistent justification, and provided that the partner receiving additional financial input does not also take over part of the responsibilities of the partner releasing the respective funds.

Transfer of activities and costs between partners requires prior approval by the Monitoring Committee.

5.5 Major changes in the Workplan of the latest approved version of JeMS project

In exceptional cases, very well justified, projects are allowed to change their approach (methodology) by modifying the contribution of the project to the Program's Output and/or

Results target indicators without affecting the project 's general and specific objectives. The proposed changes should bring an added value as compared to the initial project.

These major changes in the workplan requires prior approval by the Monitoring Committee.

For example, in case of projects under Specific Objective 1.1 contributing to Programme Output indicator RCO24 - Investments in new or upgraded disaster monitoring, preparedness, warning and response systems against natural disasters, following the procurement contracts concluded, the total contracted value of these investments could be lower than the amount budgeted. Consequently, the project contribution to RCO24 must be downsized accordingly. In such situations, the partner concerned will request the Programme to reduce the project contribution to RCO24 Programme indicator along with reduction of its share of the budget.

5.6 Rescheduling of activities

In case rescheduling an activity or more activities leads to changes of the expenditure commitment (as per art 5.12 of the Grant Contract), the Lead partner may request such a modification only, after duly considering the potential impact of this revision on the value of the expenditure commitment as indicated in article 5.12 of the Grant Contract. The opportunity and reasonability of the proposed revision(s) have to be very well justified and demonstrated in the request.

Such request has an exceptional character and shall be approved only if shall not generate delays which may lead to decommitment at Programme level.

Moreover, the expenditure commitment as per 5.12 of the grant contract cannot be modified.

5.7 Changes of the initial conditions set for the investments within the design phase of projects (regular projects)

Such changes may include, for example, changes to technical specifications, location, execution period and must be duly justified by the partners, including through authorized opinions and/or technical documentation from experts.

Change of location of the investment requires prior approval by the Monitoring Committee.

5.8 Use of project savings

Most frequently, project savings result when partners conclude public procurement contracts below the initially budgeted amounts.

A request to use the project savings must be duly justified, and mandatorily comply with the following conditions:

- Remaining implementation time frame allows the partners to undertake all the necessary actions - launch and finalize procurement procedures, execute contracts, deliver/ install equipment, train staff, if necessary, make all related payments etc. without an of the project duration.
- The project scope and objective are not altered, and the intervention logic of the project is not distorted.
- The partners do not target additional investments i.e. works and/or specialized equipment.

Consequently, project savings can only be used in a limited number of situations which do not translate into an extension of the project scope beyond what is funded by the Programme. For example, savings can be used:

- To cover price increases for works or specialized equipment when, for instance, a procurement procedure has been launched repeatedly and no tenderer has registered for the competition.
- To purchase consumables or accessories necessary for the investment/specialized equipment acquired with the project, if their total cost is below 10% of the contracted value for the respective investment/equipment.
- To carry out additional activities that increase the visibility of the project results.
- Others, of a similar nature.

If none of the above situations is agreed by the project partners, JS will be notified by the Lead Partner and, with their agreement, request of reducing the budget share/s of the partner/s concerned may be submitted to the Programme.

5.9 Change of the project teams

If staff costs are direct costs, positions in the project teams may be added or deleted, provided that the necessity and opportunity of new positions or workload changes in relation to project implementation are duly justified by the partners.

When staff positions are proposed to be deleted, clear explanations will be necessary about how the respective responsibilities are to be covered either by the remaining staff, or by sub-contracted services, and also about how the Human Resources budget will be impacted (see also section 5.3).

5.10 Increase of the total eligible cost of the project the MA undertakes to finance (Interreg grant contribution)

The Interreg grant contribution is set in art 3.2 of the Grant Contract. The increase of the grant requires prior approval by the Monitoring Committee.

5.11 Other cases

Partners must duly justify the request and ensure it does not affect the award decision and the planned project objectives.

Article 6

All project modifications including the correspondence between Lead Partner and Joint Secretariat or Managing Authority, if the case, are uploaded in Jems Contracting - Project section. The approved project modifications are uploaded in Jems Contracting - Contracts and agreements - Contracts section.

Article 7

The project partners should closely observe the deadlines for submission of the amendments (Notifications and/or Addenda), as indicated in Article 15 of the Grant Contract.

Article 8

The Lead Partner/Partners may request verification of the related expenditures (by Controllers/auditors) only after the addendum enters into force (by signature from the last party/ Joint Secretariat acceptance in JeMS of a request for modification following a Notification).

Article 9

This Instruction will be communicated by the Joint Secretariat to the Lead partners via electronic email and published on the Programme's website.

Article 10

This instruction entries into force at the date of its signature.

Iulia HERTZOG

**Head of the Managing Authority for
Interreg NEXT Romania-Ukraine**