



REPUBLIKA E SHQIPËRISË
MINISTRY OF FINANCE

ZYRTARI KOMBËTAR AUTORIZUES

NATIONAL AUTHORISING OFFICER

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Subjekti: Miratim i Udhëzuesit për Menaxhimin e Konfliktit të Interesit.

Në kuadër të Menaxhimit Indirekt të fondeve të BE nën Programin IPA III (2021-2027), si dhe në përputhje me të gjithë legjislacionin në fuqi për zbatimin e IPA III, nën autoritetin dhe përgjegjësinë e ZKA-së në Republikën e Shqipërisë:

Miratoj Udhëzuesin e Menaxhimit të Konfliktit të Interesit të Programit IPA III (2021-2027), sipas Aneksit 1.

Udhëzuesi i Menaxhimit të Konfliktit të Interesit i vendoset në dispozicion stafit të:

- Strukturës Menaxhuese (Drejtoria Mbështetëse të ZKA-së, Organit Kontabël (Drejtoria e Fondit kombëtar))
- CFCU/ONMF
- Drejtoria Mbështetëse të KKIPA
- Autoriteteve Manaxhuese për Programet IPA III dhe IPARD III.
- Organeve të Ndërmjetme për Manxahimin e Politikave.
- Autoritetit Auditues (AA)
- Agjencia për Zhvillimin Bujqësor dhe Rural.

Miratuar nga:

Andi MEMETI

Zëvendësministër

Zyrtari Kombëtar Autorizues

No. 9574 Prot.

Date: 16-6-2025

Subject: Approval of Guidance of Management of Conflict of Interest

In accordance with Indirect Management of the EU funds under IPA III Programme (2021-2027), and in accordance with legal bases for IPA III implementation, under the role and authority of the National Authorizing Officer (NAO), Version 3.0 in the Republic of Albania:

I approve the Guidance of Management of Conflict of Interest for the implementation of IPA III Programme (2021-2027), according to Annex 1.

The Guidance of Management of Conflict of Interest are made available to all staff of:

- Management Structure (NAO Support Office, Accounting Body (National Fund))
- CFCU/IBFM
- NIPAC Support Office
- Managing Authorities for IPA/IPARD III Programmes
- Intermediate Bodies for Policy Management
- Audit Authority (AA)
- IPARD Agency (Albanian Rural Development Agency)

Approved by:

Andi MEMETI

Deputy Minister of Finance

National Authorising Officer





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Aneksi 1:

- Udhëzuesi për Menaxhimin e Konfliktit të Interesit.

Annex 1:

- Guidance of Management of Conflict of Interest.



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**Guidance on
Management of
Conflict of Interests tailored to IPA specifics in Albania**



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ACRONYMS

CoI	Conflict of Interest
CFCU	Central Financing and Contracting Unit
EC	European Commission
EU	European Union
IPA	Instrument of Pre-accession Assistance
ICS	Internal Control Systems
FFPA	Financial Framework Partnership Agreement
IBFM	Intermediary Body for Financial Management
IBPM	Intermediary Body for Programme Management
IPARD SA	IPARD Sectoral Agreement
MCS	Management and control systems
MoP	Manual of Procedures
MS	Management Structure (NAO Support Office and National Fund)
NAO	National Authorising Officer
NAO SO	NAO Support Office
NF/AB	National Fund / Accounting Body



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1. Introduction & Purpose

1.1. Context and Importance

It is of paramount importance to either prevent situations off Conflict of Interest (CoI) or manage them appropriately when they occur. That is a strict requirement which is crucial for upholding the transparency, reputation and impartiality of the IPA/IPARD implementation on indirect EU budget management mode. This is essential for maintaining public confidence in the integrity and impartiality of IPA bodies.

Situations involving conflicts of interest can happen at any time. Following the legal obligations, both under EU regulations and the Albanian laws, conflicts of interest must be prevented and duly addressed. Having in place detailed policies and rules on avoiding and managing conflicts of interest is an essential part of good governance and sound IPA financial management.

If conflicts of interest are not prevented or properly managed when they arise, they can negatively affect the decision-making process in IPA bodies, give rise to unsound use of public money and cause IPA reputational damage. They can also lead to a loss of faith in the public sector's ability to operate impartially and in the general interests of society.

That is why it is of outmost importance that IPA MCS bodies and staff have common understanding of the CoI concept and strictly comply with the requirements for their prevention and elimination.

1.2. Scope

This CoI Guidance Document is applicable for all IPA MCS bodies: NIPAC, NAO, MS (NAOSO, NF/AB), IPARD Agency, IPARD MA, IPA MAs and IBPMs, IBFM, etc.

All MCS bodies and their management and staff of the indirectly implemented IPA is subject to observing the CoI national legislation and IPA requirements, at all IPA lifecycle stages: programming and monitoring, controls in project selection, grant award, procurement, contracting, payment request verification (including desk review and OTS), payment, accounting, monitoring the sustainability rule compliance, etc. plus the horizontal procedures: HR management, Risk Management, Irregularity management, etc. Further details are presented in *Annex 1 Conflict of Interest throughout the IPA Lifecycle*.

1.3. Legal & Regulatory Framework

The applicable EU and National Legislation is presented below. You can find a more details per pieces of legislation in *Annex 2 EU and National Legislation related to Conflict of Interest*.

1.3.1. EU Legislation

Applicable EU legislation consisting of provisions regulating or relevant to the CoI is as follows:

- Regulation (EU, Euratom) 2024/2509 of the European parliament and of the council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast))



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- Practical Guide to Contract procedures for EU external actions (PRAG).

Although not a piece of legislation, the EC Guidance on avoidance of conflicts of interest under the Financial Regulation (2021/C 121/01), hereinafter referred to as EC CoI Guidance 2021, provides useful guidance on how to comply with the EU requirement in the context of CoI.

1.3.2. National Legislation

The national legislation consisting of provisions regulating CoI or relevant to CoI is as follows:

- IPA II Law No. 37/2015 “On the ratification of the Framework Agreement between the Republic of Albania and the European Commission” and IPARD II Law No. 24/2016 “On the ratification of the Sectoral Agreement between the Republic of Albania and the European Commission” Financial Framework Partnership Agreement
- IPA III Law No. 65/2022 “On the ratification of the Financial Framework Partnership Agreement between the Republic of Albania and the European Commission” and IPARD III Law No. 97/2022 “On the ratification of the Sectoral Agreement between the Council of Ministers of the Republic of Albania and the European Commission” Sectoral Agreement
- IPA Financing Agreements
- Law on the Prevention of Conflicts of Interest in Public Functions No. 9367, dated 7.4.2005, amended
- Law for declaration and audit of assets, financial liabilities of elected and certain public servants (No. 9049, dated 10.4.2003, amended)
- Law No. 60/2016 on Whistleblowing and Whistleblower Protection, amended
- Law No. 152/2013 on Civil Servants amended
- Administrative Procedures Code (Law No. 44/2015)
- Decision No. 867/2014 On Cooperation between Public Institutions
- Law No. 138/2015 on Integrity in Public Functions
- Decision No. 17/2016 establishes detailed rules for the implementation of restrictions under Law No. 138/2015, titled “On Ensuring the Integrity of Persons Elected, Appointed, or Exercising Public Functions.”
- Law No. 9131/2003 on Ethical Rules in Public Administration, amended

1.4. Disclaimer

The purpose of this guidance document is to provide summary description and reference to the applicable legal requirements with regards Conflict of Interest as per the EU and national legislation, to describe how they refer to the IPA procedures and to illustrate the CoI cases. The Guidance document reflects and refers to the relevant legal requirements and reflects the EC CoI Guidance as of 28 February 2025, as well as take into consideration the latest applicable audit reports. In cases of



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identified discrepancies between this document and the applicable legislation (EU and national) for the CoI, the latter prevails.

1.5. Regular Review and Update

The CoI Guidance Document, it is subject to regular review, and as needed is updated. It should take into consideration, as applicable, the envisaged legal amendments in the Intersectoral Anti-Corruption Strategy 2024 2030, led by the Anti-corruption coordinator: the Minister of State for Public Administration and Anti-corruption.

2. Defining Conflict of Interest

FFPA Article 51 (4) Protection of the financial interests of the Union, stipulates that Albanian IPA III authorities, including the personnel responsible for the programming and implementation of the tasks of the IPA III funded activities, shall:

- (i) take whatever precautions necessary to avoid any risk of conflict of interests and
- (ii) inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.

2.1. Definition

IPA bodies staff have CoI if their private interests compromise the proper (impartial and objective) implementation of their IPA duties.

The definitions of the CoI that are to be observed as per the IPA FFPA and as per the Law on the Prevention of Conflicts of Interest in Public Functions are presented below.

IPA FFPA: “Conflict of interests means that the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life¹, political or national affinity, economic interest or any other direct or indirect personal interest.”.

Law on the Prevention of Conflicts of Interest in Public Functions: Conflict of interest is a situation of conflict between the public duty and the private interests of an official, in which s/he has private interests, direct or indirect, that influence, may influence, or appear to influence the improper performance of her/his public duties and responsibilities.

When implementing IPA, both the IPA FFPA provisions as well as the Law on the Prevention of Conflicts of Interest in Public Functions requirements, with regards CoI are to be observed.

In table format below are presented the main elements of the definition of the CoI as per the IPA legislation and guidance and as per the national legislation: (i) who is concerned and (ii) what is personal interest - types.

¹ The IPA CoI definition refers to ‘family’ and ‘emotional life’ separately. An emotional bond between family members is therefore not required.

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As stated above all MCS bodies and their management and staff of the indirectly implemented IPA is subject to observing the CoI requirements.

IPA	National legislation
<p>EU Financial Regulation: Article 61 Conflict of interest provides the CoI definition and who it concern.</p> <p>- <i>“Financial actors within the meaning of Chapter 4 of this Title and other persons, including national authorities at any level, involved in budget implementation under direct, indirect and shared management, including acts preparatory thereto, audit or control, shall not take any action which may bring their own interests into conflict with those of the Union. They shall also take appropriate measures to prevent a conflict of interests from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interests....”</i></p> <p>- <i>Where there is a risk of a conflict of interests involving a member of staff of a national authority, the person in question shall refer the matter to his or her hierarchical superior. Where such a risk exists for staff covered by the Staff Regulations, the person in question shall refer the matter to the relevant authorising officer by delegation. The relevant hierarchical superior or the authorising officer by delegation shall confirm in writing whether a conflict of interests is found to exist. Where a conflict of interests is found to exist, the appointing authority or the relevant national authority shall ensure that the person in question ceases all activity in the matter. The relevant authorising officer by delegation or the relevant national authority shall ensure that any further appropriate action is taken in accordance with the applicable law, including, in the cases involving a member of staff of a national</i></p>	<p>FFPA Article 51 (4) defines that the provisions for CoI refer to the entire personnel responsible for the programming and implementation of the tasks of the IPA III funded activities.</p> <p>Law on Prevention of Conflicts of Interest in Public Functions: <i>Article 4 Scope of Application</i> defines the categories of officials and employees.</p> <p>All IPA MCS management and staff is subject to observing the CoI requirements.</p>

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authority, with the national law relating to conflict of interests.

2.1.2. What is personal Interest?

The provisions and clarifications of personal interest is presented below:

IPA	National legislation
EU Financial Regulation: Article 61 Conflict of Interest: <ul style="list-style-type: none">- “Conflict of interests means that the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.”	Law on Prevention of Conflicts of Interest in Public Functions: Article 5 Private interest defines the scope of the private interest. According to these provisions “...any kind of private interest of an official, as provided in this Article - any linkage or combination between two or more of them - shall be considered grounds for the emergence of a conflict of interest if, due to that interest or going beyond the mandatory limits of that interest, a conflict-of-interest situation arises...”
EC CoI Guidance 2021: <ul style="list-style-type: none">- Direct and indirect interest can also include gifts or hospitality, non-economic interests, or result from involvement with non-governmental or political organisations (even if non remunerated), competing duties of loyalty between one entity the person owes a duty to and another person or entity the person owes a duty to.- An indirect interest goes beyond the direct connection between the person in question and the <i>beneficiary</i> of EU funds (see the figure below)	<p>“The private interests of the official are those interests that coincide with, include, are based on, or derive from:</p> <ul style="list-style-type: none">- Property rights and obligations of any kind- Any other civil-legal relationship- Gifts, promises, favors, preferential treatment- Possible negotiations for future employment by the official during the exercise of his/her function or negotiations for any other form of private relationship of interest to the official after leaving office, conducted by him/her during the exercise of the duty- Engagement in a private, profit-making activity or any other activity that generates income, as well as engagement in for-profit and nonprofit organizations, trade unions, or professional, political, state, and any other organizations;- Relationships: (i) Family or cohabitation; (ii) Community; (iii) Ethnic; (iv) Religious; (v) Known friendships or hostilities



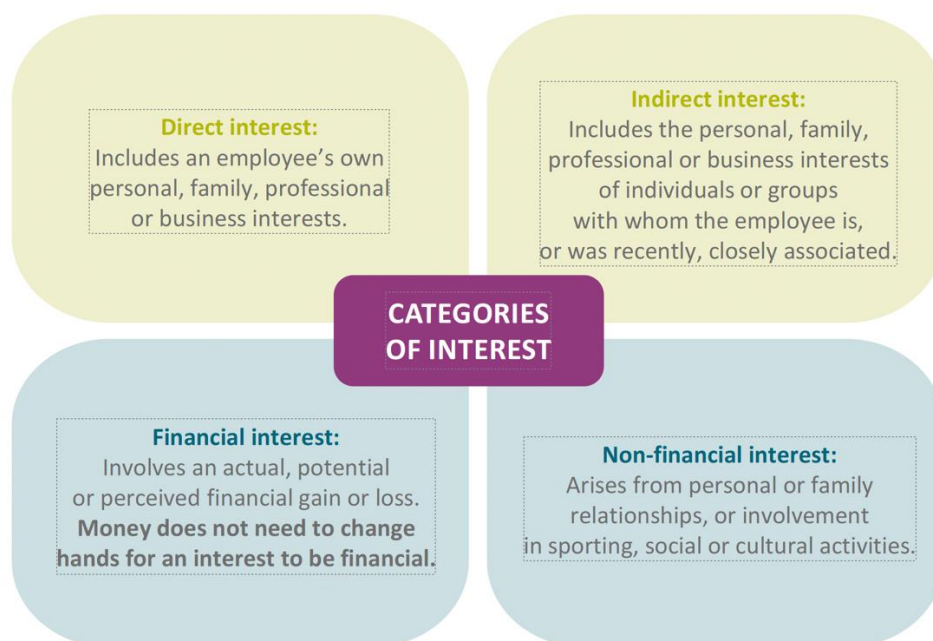
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- Previous engagements from which any of the interests above have derived or still derive.”

A conflict of interest can arise even if the person does not actually benefit from the situation of this personal interest, as it is sufficient that circumstances² hamper their ability to exercise their functions in an objective and impartial manner.

Figure 1 Categories of Interest



Source: Victorian Public Sector Commission, 2016.

Box 1 Example of a personal interest – direct and indirect

A head of a Managing authority/IBFM/IPARD Agency:

- might have a direct personal (family) interest in allocating IPA funds to a project of the company of their spouse/partner (and therefore would need to declare a conflict of interest and abstain from being involved in decision-making related to that project, so that the situation can be managed);
- might have an indirect personal (family) interest, in allocating IPA Funds to a company that promised to create a new factory for which the company of the spouse/partner will most likely be the most significant sub-contractor (and therefore would require them to abstain from decisions related to the award procedure) or owns the land that the company will have to buy to build the factory.

Source: 2021 EC CoI Guidance

² However, such circumstances must have a certain identifiable and individual link with (or impact on) concrete aspects of the conduct, behaviour or relationships of the person.



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2.2. Situations which may objectively be perceived as a conflict of interest

The EU Financial Regulation³ stipulates that the financial actors and other persons, should address situations which may objectively be perceived as a conflict of interests.

Box 2 Situations which may objectively be perceived as a conflict of interests as per EC CoI Guidance 2021

Any activity or interest, which could interfere with the IPA staff impartially and objectively exercising their functions and thus affect public trust in the sound financial management of the IPA budget, could generate a situation which may be perceived as a conflict of interest (e.g. a risk or possibility of favouritism or hostility for reasons of family interest and national or political affinity).

A perceived conflict of interest may notably occur when a person, regardless of their intentions, may reasonably be seen as having competing personal and public interests as these risk undermining the person's ability to fulfil their tasks and responsibilities in an impartial and objective manner.

A perceived conflict of interest covers objective circumstances affecting trust and confidence in a person's or entity's independence and impartiality, even if the conflict of interest does not materialise.

The term 'objectively' requires verifiable factual indications that there are links between the functions and the interest at stake, for instance:

- a power to act or give instructions
- a link via a third person
- a continuing link with previous positions
- a link with future positions or
- a hierarchical and/or functional link.

The interest has to be sufficiently significant to be perceived as being able to 'compromise' the 'impartial and objective exercise of the functions. The FR does not set a precise quantitative threshold for the interests that could create a conflict of interest, nor does it seem possible to establish one.

A 10% share in a company may not seem large, but it (or indeed an even smaller percentage share) could still be the largest single holding in the company concerned, it could be accompanied by the right to veto important decisions of the company or represent a sizeable asset given the size of the company. A thorough examination of each case will be necessary in such situations.

Examples of when a person who works for a IPA MA/IPARD Agency/IBPM, etc., and is in charge of evaluating grant applications for funding/public procurement tenders, could come to be in a situation that may constitute or be objectively perceived as a CoI, e.g. when the:

- official (or their partner) simultaneously carries out consultancy work, for either a consultancy or a third-party providing services to the consultancy, on submitting applications for EU funding

³ Article 61 Conflict of interest of the EU FR.



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- official (or an immediate family member⁴ of the official) owns a company applying for EU funding
- official has a personal friendship with the managers/owners of a company applying for EU funding
- official is a candidate (as a member of a political party) for public office and their political party has a business relationship vis-à-vis a specific applicant for EU funding
- official, prior to leaving their position in the public service, negotiates their future employment in a company applying for EU funding (or affiliated or partner company, or another company with overlapping ownership compared to the one applying for EU Funding)
- official recently worked in a management position in a company applying for EU funding and was in charge of the particular sector of the company that is now requesting the funding.

Source: 2021 EC CoI Guidance, adjusted to IPA context

2.3. Situations where CoI would not normally exist

Below are outlined unexhaustive list situations where CoI would not normally exist:

Box 3 Situations where CoI would not normally exist

A conflict of interest would not usually exist in situations where:

- the interests of the person concerned are affected as a member of the public or part of a broad class of persons, unless the person (or the related person, e.g. a family member) is in a specific and different situation compared to other members of the public or the broad class of persons.

Conflict of interest would not usually exist where the implementation of the IPA budget tasks by the person concerned are related to decisions that:

- are of a general nature and based on objective criteria that apply to a whole sector of the economy or a very wide group of potential beneficiaries and
- would therefore neither be compromised by emotional life, political or national affinity and economic interest, nor by the fact that the person concerned or a member of their family is among the beneficiaries.

A mere link with beliefs, views, opinions or preferences of the person does usually not constitute a personal interest.

If the IPARD Agency official lives in a municipality that is applying for IPARD infrastructure funding, this should not necessarily and objectively be perceived as giving rise to a conflict of interest. The larger the group to which the official belongs that would benefit from a measure – in this case, the people of the municipality concerned – the more diluted the risk of conflict of interest generally becomes. However, a case-by-case assessment remains necessary if, for example, the official were to

⁴ The 2021 CoI Guidance Document understanding of ‘immediate family’ is that it comprises of the following relationships, including if formed through adoption: the spouse (including a partner with whom the individual has a registered non-marital partnership), children and parents, (great-)grandparents and (great-)grandchildren, brothers and sisters, uncles and aunts, nieces and nephews, first-degree cousins, parents-in-law, children-in-law, siblings-in-law, stepparents and stepchildren. The existence of one of these family relationships between the person concerned and a party involved should, at least, be considered as a situation objectively perceived as a conflict of interest.



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benefit from the funding measure in a particular way, e.g. from public infrastructure increasing the real estate value of their neighbourhood, the perception of a conflict of interest could exist/arise.

Source: 2021 EC CoI Guidance

2.4. Types of Conflict of Interest

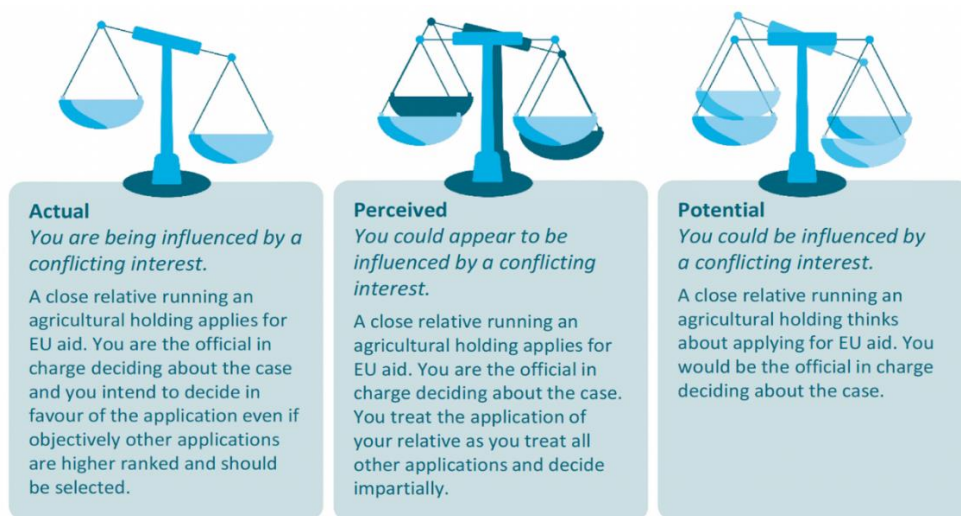
According to the Law on Prevention of Conflicts of Interest in Public Functions there are three types of CoI: (i) actual; (ii) apparent and (iii) potential. This classification is important with regards the management of the CoI.

Box 4 Types of CoI as per the Law on Prevention of Conflicts of Interest in Public Functions

- a) “Actual conflict of interest” is a situation in which the private interests of an official influence, have influenced, or may have influenced the performance of his/her official duties and responsibilities in an unfair manner.
- b) “Apparent conflict of interest” is a situation in which the private interests of an official appear, in outward form or appearance, to have influenced, to influence, or to be able to influence the performance of his/her official duties or responsibilities in an unfair manner, but in fact, such influence has not occurred, does not occur, or has no possibility of occurring.
- c) “Potential conflict of interest” is a situation in which the private interests of an official may, in the future, cause the emergence of an actual or apparent conflict of interest if the official were to become involved in certain duties or responsibilities.

Similar classification is introduced in the European Court of Auditors Special Report on Conflict of Interest of 2023, where each of the categories is illustrated by example.

Figure No 2 Examples of Actual, Perceived or Potential CoI





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Source: 2023 ECA Special Report “Conflict of interest in EU cohesion and agricultural spending”

2.5. Common Examples of CoI in IPA/IPARD

Below are listed unexhaustive examples of common for IPA/IPARD officials’ conflict of interest:

- Family or personal ties with a beneficiary or contractor/subcontractor
- Financial interest/recent employment in a company that is applying for a grant
- Involvement in the evaluation or decision-making process for a project in which the official or close relatives have a stake
- Family or personal ties with a staff at interdependent hierarchy level of IPA/IPARD body which prevents them from objectively perform their duties
- Tenderer/Grant applicant co-drafted the award procedure documents (technical specifications, etc.)
- A staff member who was involved in selecting a project is later tasked with auditing its implementation
- An economic operator is awarded a contract to evaluate a project in which they have participated.

Further details and other real-life examples of CoI form these and other categories are presented in *Annex 3 Examples of conflicts of interest*.

For detailed practical examples of conflict of interest in each IPA/IPARD structure, please refer to Annex 9.

3. Prevention of Conflict of Interest

The national legislation⁵ stipulates the following detailed restriction of private interests to prevent conflicts of interest in specific matters and cases (this description below is not exhaustive, it a summary emphasising the main aspects covered - please refer to the original provisions for full scope of these provisions):

Prohibition on concluding contracts⁶

- Officials covered by this law cannot enter into contracts or subcontracts with public institutions if they have private interest in commercial entities, has a substantial and decisive competence in the decision-making process of evaluating providers and offers or in defining the terms of the contract
- The restriction applies differently based on the official's position (judges, prosecutors, mayors, officials etc.).

⁵ Law on Prevention of Conflicts of Interest in Public Functions, Chapter III.

⁶ Article 21 of the Law on Prevention of Conflicts of Interest in Public Functions



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- Exceptions exist for employment contracts, services provided by public institutions, or contracts for public benefit.

Prohibitions on income derived due to particular functions⁷

- Officials cannot actively own shares in companies that benefit from tax exemptions, free zones, or customs facilities for any official who has substantial and decisive competence in granting the company any of the treatments mentioned above
- Officials representing public institutions in commercial entities are prohibited from receiving financial benefits tied to their duties: Directly or indirectly receiving any financial benefit; accepting, for his/her own benefit, gifts or equity in the company; purchasing equity, shares, or the company's assets; benefiting directly or indirectly from suppliers or clients of these companies.
- Receiving gifts, acquiring shares, or benefiting from suppliers related to public contracts is strictly forbidden.

Prohibition of receiving gifts, favours, promises, or preferential treatment⁸

- Officials cannot request or accept gifts, favours, or promises or preferential treatment offered because of his/her position.
- Any gifts received must be refused, returned, or handed over to their superior / superior institution.
- If the gift or favour relates to a criminal offense, officials are required to report it to the relevant authorities.
- Excluded are only the cases defined by acts of the competent authorities, which allow the acceptance of gifts or preferential treatment for protocol reasons.

Restrictions on the interests of persons connected to an official⁹

- Spouses/cohabiting partner, adult children, and parents of officials and the spouse/cohabiting partner are also subject to the same restrictions on contracts and income sources (Articles 21 and 22).
- For the purposes of Article 23, the circle of persons connected to an official, in addition to those defined for Article 21 and 22 is extended to any natural or legal person who, in connection with the gift, favour, promise, or preferential treatment, acts as an intermediary or exchange agent of the interests arising from that act.
- Restrictions on shares and equity apply both individually and collectively to the official and their connected persons.

⁷ Article 22 of the Law on Prevention of Conflicts of Interest in Public Functions

⁸ Article 23 of the Law on Prevention of Conflicts of Interest in Public Functions

⁹ Article 24 of the Law on Prevention of Conflicts of Interest in Public Functions



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Indirect ownership of interests¹⁰

- The prohibition on contracts also applies when officials indirectly own shares in a company via partnerships or related legal entities.
- This prevents circumventing the conflict-of-interest rules by holding assets through intermediaries.

Additional restrictions¹¹ relevant for the high-ranking officials, Parliament, Army, Tax and Custom administration, etc.

Declaration and audit of assets, financial liabilities of elected and certain public servants

- In order to ensure transparency, the Law¹² requires regular (annually by 31 March) declaring by elected figures, representatives of independent public institutions and the Judiciary, high and medium public servants of their assets, financial liabilities and other private interest.
- The declaration includes their families (spouse/co-habiting and adult children) and the persons connected to them.

In order to help everyone prevent the possible col we have foreseen a simplified flowchart designed to provide a clear, step-by-step overview for identifying, declaring, escalating, and managing conflicts of interest within IPA/IPARD structures. In order to serve as a practical reference tool to support everyday operational and also a preventive checklist that can help identify potential col and also to help conducting the necessary training for the staff, the checklist is applicable for the staff levels, see Annex3.1.

4. Identifying & Declaring Conflicts of Interest

The identification of conflict interest is done through identification of the official's private interests using the following main methods: (i) initial declarations; (ii) ad-hoc ex-ante declaration; (ii) by third parties or (iii) other sources of information. It is of responsibility of staff/committee members to self-assess and disclose any potential CoI.

The CoI may emerge at any time. That is why the IPA staff need to be aware of the CoI concept and monitor the interrelation between their private interest and public duties. This way they will make sure that they fulfil their strict obligation to identify in advance potential CoI, declare, eliminate and manage CoI, as to avoid: (i) the negative consequences for us; (ii) the negative consequences for the third party concerned – e.g. tenderer/contractor/recipient; (iii) reputational damages for IPA public body and the EU, EC and Albanian Government.

¹⁰ Article 25 of the Law on Prevention of Conflicts of Interest in Public Functions

¹¹ As per section are stipulated in Section 2 of the Law on Prevention of Conflicts of Interest in Public Functions: Restriction of private interests to prevent particular cases of ongoing conflict of interest

¹² Law for declaration and audit of assets, financial liabilities of elected and certain public servants (No. 9049, dated 10.4.2003)



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4.1. Mandatory Declarations of Conflict of Interest

The following declaration with regards CoI are obligation to be filled in by the IPA staff.

The declarations regarding conflicts of interest and all documents accompanying them are official documents. Providing false data in them constitutes a criminal offense and is punishable under the legislation in force.

4.1.1. Initial and Annual Declarations

Upon starting the job and annually (in the beginning of the year), a Declaration of Impartiality and Confidentiality as per the format from the entrusted MoP and HRM rules is filled in by each member of the IPA bodies staff. Exemplary Declaration of Absence of Conflict of Interest is provided in

Annex 4 Declaration of Absence of Conflict of Interest and Confidentiality.

4.1.2. Ad-hoc Declaration Private Interests that may cause a Conflict of Interest

Ad-hoc Declaration private interests that may cause a CoI is called hereinafter an Ad-hoc CoI Declaration.

As per the Law on Prevention of Conflicts of Interest in Public Functions¹³, Ad-hoc Declaration of the official's private interest is:

- (i) Ad-hoc self-declaration of the official's declaring in advance his/her private interests that may cause a conflict of interest; or
- (ii) Made when this is requested¹⁴ by the superior or the superior institution – ex-ante or as soon as possible.

Each case in which an ad hoc conflict of interest arises in all IPA/IPARD structures, its reported to and registration is done by the NAO for the Declaration and Audit of Assets and Conflict of Interest.

Exemplary format of the CoI Ad-hoc Declaration is provided in *Annex 4 Declaration of Absence of Conflict of Interest and Confidentiality and*

Annex 4 Declaration of Absence of Conflict of Interest and Confidentiality
I, the undersigned,

¹³ Article 7 of the Law on Prevention of Conflicts of Interest in Public Functions

¹⁴ The Declaration of private interests related to Ethnic; Religion; Known friendships or hostilities; as well as affiliation with political organizations is done based on good will.



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<name>
<position>
<structure and institution>,

Declare that I am aware that:

1. To the best of my knowledge, I have no conflict of interest as per the legal CoI definitions:

IPA FFPA: “Conflict of interests means that the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.”.

Law on the Prevention of Conflicts of Interest in Public Functions: "Conflict of interest" is a situation of conflict between the public duty and the private interests of an official, in which s/he has private interests, direct or indirect, that influence, may influence, or appear to influence the improper performance of her/his public duties and responsibilities.”.
2. There are no facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence in the eyes of any party with regards the implementation of my IPA and/or IPARD duties.
3. If I discover during the implementation of my IPA and/or IPARD duties and functions that such a conflict exists, or could objectively be perceived to exist, or could arise, I will inform my superior without delay.
4. I am aware that official or any subject who provides substantiated information on cases of conflict of interest not declared by the officials subjects of this law shall be protected as per Law on Prevention of Conflicts of Interest in Public Functions.
5. I understand that the facts declared in this declaration might be subject to verification.
6. I also confirm that I will keep all matters entrusted to me confidential. I will not communicate outside of the working information/reporting lines as per the entrusted MoP, any IPA related information that is revealed to me or that I have discovered.
7. I am aware that the declarations regarding conflicts of interest and all documents accompanying them are official documents. Providing false data in them constitutes a criminal offense and is punishable under the legislation in force.

Name and Position: _____
Signature: _____
Date: _____



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Annex 5 Declaration of Ad-hoc Conflict of Interest .

4.1.3. Declarations as Members of Evaluation Committee

Public Procurement Evaluation Committee

All members of the evaluation committee and any observers must sign a declaration prior to carrying out any tasks related to the evaluation. Any evaluation committee member or observer who has or might have an actual or potential conflict of interest with any participant must declare it and immediately withdraw from the evaluation committee. The declaration is as per the format of entrusted MoP and the applicable PRAG rules (section 2.9.2 and format of the declaration in Annex a4):

- Declaration of Impartiality and Confidentiality (for PRAG rules before 2025) or
- Declaration of Absence of Conflict of Interest and Confidentiality (PRAG 2025). Further details are provided in PRAG.

IPARD Reasonableness of the Cost Evaluation Committee

The members of EvC (staff and external members) must sign document E-3.0-1.32 “Declaration of Impartiality and Confidentiality” in regard to their work of the Evaluation Committee.

4.1.4. Screening & Documentation

The responsible institutions, such as the Managing Authority and the IPARD Agency, should review and assess the declarations regarding the conflict of interest (CoI) including:

- Verifying the completeness and accuracy of the submitted declarations;
- Cross-checking the declared information with other institutional data, where applicable, to identify potential conflicts;
- Classifying cases as: no risk, potential risk, or confirmed conflict of interest;
- In cases where a potential or actual conflict is identified, the case is escalated to the appropriate internal unit for further handling

The screening process should be carried out in line with the principles of transparency, proportionality, and impartial treatment.

Also all conflict of interest declarations should be securely stored in archives, The data is stored and processed in accordance with national data protection laws, and where applicable, with the EU Data Protection Regulation .

4.2. Identification of the official’s private interests by third parties

As per Article 8 of the Law on Prevention of Conflicts of Interest in Public Functions, providing information on an official’s private interests is the:

- duty of: (i) any other official who has knowledge of it, in particular that of his/her superior; (ii) any public institution that has knowledge of it
- right of: (i) interested parties affected by the actions of the official



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- right of any person who has knowledge and has a general interest consistent with this law; (ii) any official or any subject who provides substantiated information on cases of conflict of interest not declared by the officials subjects of this law shall be protected by the Law¹⁵.

4.3. Other sources of information on the official's private interests

Other sources of information on an official's private interests may also be¹⁶: (i) Public or private registries maintained in accordance with the legislation in force¹⁷; (ii) Data from the media; (iii) Data or complaints from the public; (iv) Any other lawful source.

4.4. Red Flags of Conflict of Interest

A list of “red flags” with regards CoI attached in *Annex 6 “Red flags” on Conflict of Interest* indicates where attention should be focused and more thorough checks are desirable. The list of “red flags” is indicative rather than comprehensive - it does not include every situation that might raise a justified suspicion of conflict of interest.

5. Escalation & Management Process

5.1. Immediate Reporting

As described in the previous section 4 *Identifying & Declaring Conflicts of Interest*, the reporting of the potential or actual cases of CoI is a strict obligation for all IPA bodies' staff. The reporting is done based on the provided templates without delay (immediately) to their hierarchical superior or to the head of the Evaluation Committee.

5.2. Conflict of Interest Management

The management of conflicts of interest focuses on handling and resolving them. A conflict of interest arises when there is a risk that a staff member of a national authority may be involved in a situation where personal interests conflict with their professional duties. In such cases, the individual concerned should report the issue to their hierarchical superior

The relevant hierarchical superior shall confirm in writing whether a conflict of interests is found to exist. Where a conflict of interests is found to exist, the head of the IPA body shall ensure that the person in question ceases all activity in the matter.

As per the Law on Prevention of Conflicts of Interest in Public Functions¹⁸, the basic methods for handling and resolving conflicts of interest are:

¹⁵ Article 20 of the Law on Prevention of Conflicts of Interest in Public Functions.

¹⁶ Article 9 of the Law on Prevention of Conflicts of Interest in Public Functions.

¹⁷ Examples of such registers are: E-Albania - [LINK](#) ; National Business Register - [LINK](#) ; Register of the General Tax Directorate - [LINK](#) .

¹⁸ Article 37, Law on Prevention of Conflicts of Interest in Public Functions.



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5.2.1. Elimination and Resolving of the CoI by the Official

The official must eliminate and resolve conflicts of interest in a graded and proportionate manner, by one or combination of the following:

- Transferring or alienating private interests.
- Excluding themselves from decision-making (unless their role cannot be delegated).
- Resigning from private duties, functions or engagements that conflict with public duties
- Resigning from public office in cases of ongoing conflicts.

The officials must inform their superior or superior institution about actions taken to resolve conflicts and provide documentary proof for this.

5.2.2. Elimination and Resolving of the CoI by the Superior or Superior Institution

The EC Guidance of CoI 2021 suggests that the relevant hierarchical superior of the official must confirm in writing whether a conflict of interest exists (and the person concerned is obliged to refrain from creating any fait accompli while their superior's decision is pending).

The official's superior or the superior institution eliminates and resolves any conflict-of-interest situation of a subordinate official, by using, as appropriate and feasible, one or more of the following methods¹⁹:

- Restricting access to certain information
- Reassigning duties to avoid conflicts
- Preventing participation in decision-making
- Transferring the official to a different role
- Cancelling or revoking act adopted in the presence of an actual conflict of interest.

5.3. Reporting to Higher-Level Committee

All conflict of interest cases and the actions taken to address them must be reported by the IPA body to the NAO, detailing the measures implemented for handling and resolving these cases

5.4. Reporting cases of CoI as irregularities

All unsolved cases of objectively perceived CoI constitute irregularities. They are reported and treated as per the Irregularity Management chapter, including reporting to the EC.

5.5. Follow-Up & Monitoring

- The CoI or ethics officer (or relevant unit) should monitor that mitigating measures are effectively applied.
- Keep a log of all reported conflicts and their resolutions.

¹⁹ As per the Law on Prevention of Conflicts of Interest in Public Functions

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Regardless of actions taken in the context of CoI, both the official and the superior remain responsible if conflicts are not effectively prevented.

5.7. Workflow: How Conflict of Interest (CoI) is Processed in the Hierarchy

This workflow outlines the step-by-step process for identifying, declaring, assessing, mitigating, and closing a Conflict of Interest case within IPA/IPARD structures. It clarifies who takes action at each stage and when escalation is necessary.

Step	Action	Handled By	Escalation If...
1	Identify potential conflict	Staff member (self or third-party)	
2	Submit Ad-hoc Declaration (Annex 5)	Staff member → Supervisor or Chair	
3	Preliminary assessment of declaration	Supervisor	Facts unclear
4	Decision: CoI confirmed?	Supervisor	If CoI → Proceed to mitigation
5	Apply mitigation (recusal, reassignment, etc.)	Supervisor / IPA Head	If systemic → Escalate to IPA Head
6	Log case & notify (if required)	Ethics Officer/ IPA Head	If confirmed CoI or irregularity
7	Monitor mitigation implementation	Supervisor / IPA Head	If non-compliance → IPA Head
8	Final review & case closure	Archive	Included in periodic reports

- CoI cases can be triggered by declaration, third-party alert, or audit finding.
- Escalation is mandatory in case of:
 - Uncertainty about conflict status
 - Complex cases involving senior staff
 - Repeat or systemic failures
 - Non-implementation of mitigation
- All steps must be documented, and time stamped.



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5.8 Mechanisms for Reporting Conflict of Interest in IPA/IPARD Structures.

- Declaration of private interests by staff at the beginning of employment and periodically.
- Responsible person within each structure.
- Regular training sessions on ethics and conflict of interest.
 - Establishment of an internal reporting system and related forms.
 - Reporting suspected cases to the institutional head and to the NAO.
 - Inclusion of preventive measures in internal guidelines and working manuals.
 - Keeping a registry of declarations and conducting independent checks.
 - Providing anonymous reporting channels for employees.
 - Internal and external audits to verify practices and declarations.
 - Reporting serious irregularities also to NAO/AFCOS and OLAF.

For examples on reporting line how and where to report conflict of interest cases in IPA/IPARD structures see Annex 11

6. Roles & Responsibilities

6.1. Staff & Evaluation Committee Members

- As described in the section 4 *Identifying & Declaring Conflicts of Interest*, reporting of the potential or actual cases of CoI is a strict obligation for all IPA bodies' staff. The reporting is done based on the provided not compulsory template of declarations without delay (immediately) to their hierarchical superior / head of the Evaluation Committee.
- The IPA staff is obliged to take the necessary measures of management of potential CoI (handling and resolving) as described in section 5 *Escalation & Management Process*.

6.2. Direct Supervisors

- Act as first contact for CoI issues
- Report and propose to the Head of the IPA body measures for management the conflict of interest

6.3. Chairperson of the Evaluation Committee

- Act as first contact for CoI issues for the Evaluation Committee members
- Decides whether the evaluation process must be restarted in a decision must be recorded and reasons given in the evaluation report.

6.4. Head of IPA body

- Takes decisions on the proposed measures for management of CoI
- Ensures that all unresolved objectively perceived conflict of interest are proceeded as per the Irregularity Management procedures.



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- Escalate cases to the competent national authorities when necessary
- Ensures that the staff in the context of CoI has the necessary level of awareness and complies with the compulsory measures for prevention, declaring (detection), management and taking corrective measures.

6.5. Conflict of Interest Officer

- Responsible for policy oversight, complex CoI resolution, maintaining logs, and ensuring compliance.

6.6. Internal Audit

- Conduct periodic checks to verify correct application of CoI rules.

Internal Audit function should consider for potential audit area, the implementation by the IPA body of the CoI procedures and requirements as part of their audit risk assessment and, if applicable, audit planning.

6.7. IPA Bodies

All IPA bodies are responsible to ensure that:

- CoI rules are integrated into procedures manual and complied with by the staff
- CoI awareness exist among staff, incl. through providing regular staff training
- escalation processes function properly and potential or actual CoI are adequately managed and reported – details are provided in section 5 *Escalation & Management Process*.

6.8. Other public authorities

The IPA/IPARD structures shall submit to the NAO, each year by January 31 at the latest, a report on the activity carried out in implementation of this law for the preceding year, including cases of conflict of interest, the methods used to prevent or handle them, the results achieved, and issues related to periodic declarations.

6.9 Prohibition of Functions and 'Cooling-off' Period for IPA/IPARD Structures

To prevent undue influence in decision-making and ensure the independence of public institutions, individuals previously appointed as heads or directors are prohibited from being appointed to managerial positions within management structures for a period of two years after their appointment.

An individual cannot be appointed to a managerial position in managing structures if they have held decision-making or contracting functions in beneficiary entities during the past 2 years.

- An employee of the audit structures (AA or IA) may not be appointed to managerial roles in entities that were subject to audit by them or their colleagues during the previous two years.

- Individuals who have acted as consultants, contractors, or external experts for a specific project may not be appointed to positions responsible for that same project.

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- Employees leaving IPA/IPARD structures may not take roles related to contractors or fund beneficiaries for a period of 2 years after departure.
- Candidates for new positions in managing structures must declare any previous links that could create a conflict of interest.

For detailed practical examples of restrictions on appointments and the recommended cooling off period see annex 10.

7. Sanctions & Consequences**7.1. Consequences with regards the contracts / agreements / acts**

Before we explain each possible consequence in detail, the table below summarizes some potential outcomes of undeclared or unmanaged conflicts of interest

Consequences of Undeclared / Unmanaged Conflict of Interest:

Scenario	Potential Consequences	Applies To
Staff fails to declare a personal tie to a grant applicant or contractor	<ul style="list-style-type: none">- Removal from duty- Disciplinary sanctions- Reputational harm to the institution	All IPA staff and external experts
Evaluation is carried out by a conflicted official and award is not cancelled	<ul style="list-style-type: none">- Entire procedure declared invalid- 100% financial correction- Recovery of EU funds	Evaluation Committee, IPA Body
IPA body does not act on a declared or known conflict	<ul style="list-style-type: none">- Administrative liability of management- Reporting as irregularity- Systemic issue noted in EC or OLAF audits	Heads of bodies, Ethics Officer
False information provided in declarations	<ul style="list-style-type: none">- Criminal prosecution for falsification- Dismissal- Entry into national registry of integrity violations	Any declarant
Conflicted staff participates in financial decision-making	<ul style="list-style-type: none">- Civil liability for damages- EC/NAO suspension of payments- Audit qualifications or EC audit reservation	IPA finance, procurement, audit
Pattern of CoI mismanagement at institutional level	<ul style="list-style-type: none">- Enhanced scrutiny by EC/OLAF	Entire IPA structure



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	<ul style="list-style-type: none">- Interruption or suspension of EU funding- Loss of entrustment status for implementation	
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7.1.1. IPA contracts / agreements

In the presence of an unresolved objectively perceived conflict of interest or if the conflict of interest materialises (e.g. a staff member effectively uses their power to favour an economic entity owned by an immediate family over another entity), such situations should lead to the examination of its impact in entrusted IPA budget implementation also with a view to determine adequate remedies as applicable, e.g.:

- cancelling and re-evaluating award procedures
- cancelling contracts/agreements
- suspending payments
- registering irregularity, making financial adjustments and recovering funds.

As stated in the 2021 EC CoI *Guidance*, “the EC considers that an unresolved objectively perceived conflict of interest constitutes an irregularity. Such irregularities must be prevented, but if not, they should be detected and corrected by the competent national authorities.”

The non-compliance (either individual or systemic) with the rules on avoidance of conflicts of interest requires correcting the irregularities and where needed improvement of the internal control system and need to be treated (including registration, control, reporting, corrective measures) as per the Irregularity Chapter of the IPA institution’s MoP. It is reported to NAO and EC as an irregularity without delay via the IMS of the Commission (as per the OLAF classification CoI: T19 Ethics and Integrity / 00 Conflict of Interests).

Financial adjustments in identified conflict of interest with impact on the outcome of the procurement procedure: although it is applicable for the EC member states, the EC Decision (C(2019) 3452 final) laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with the applicable rules on public procurement provides useful reference. It envisages that whenever an undisclosed or inadequately mitigated conflict of interest has been identified²⁰, and the tenderer concerned was successful in securing the contract(s) in question²¹, the financial correction rate is 100%.

²⁰ According to Article 24 of the Directive 2014/24/EU (or Article 35 of Directive 2014/23/EU or Article 42 of Directive 2014/25/EU)

²¹ The conflict of interest may already occur at the stage of the project preparation, as far as the project preparation had an influence on the tender documentation/tender procedure.



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7.1.2. Invalidity of Acts and Consequences

As per Law on Prevention of Conflicts of Interest in Public Functions²²:

- Acts and administrative contracts issued by public institution under an actual or apparent conflict of interest are considered invalid according to administrative law.
- Civil contracts made in violation of conflict of interest rules have no legal effect.

7.2. Consequences with regards the staff

7.2.1. Regulation of Legal Consequences of Acts Issued in Conflict of Interest

When an act of a public institution is invalid as a result of been adopted in conditions of conflict of interest, this according to the Law on Prevention of Conflicts of Interest in Public Functions²³ could generally qualify as a wrongful act under administrative, civil service law or criminal law and should be penalised as such. It envisages that if an official is found to have acted in bad faith, the public institution must:

- Initiate disciplinary actions.
- Seek compensation from the official.
- Request moral damages through the courts.
- File criminal charges, if applicable.

7.2.2. Administrative Sanctions

All actions taken by the employee must in accordance with Albanian labor law and the regulations governing public administration.:

- Law on Prevention of Conflicts of Interest in Public Functions: any violation of the obligations defined in that law, when it does not constitute a criminal offense, is an administrative offense and will be punishable by a fine within the limits defined in the law.
- Law on Ethical Rules in Public Administration: violations of the CoI requirements can lead to fines and legal consequences for serious breaches.

7.2.3. Disciplinary Sanctions

As per the national legislation:

- Law on Prevention of Conflicts of Interest in Public Functions: any violation of the obligations defined in this law by officials constitutes a disciplinary breach, regardless of criminal or administrative liability.
- Law on Ethical Rules in Public Administration: violations of conflict of interest rules may result in disciplinary sanctions, including dismissal.

²² Article 40 where other cases with regards invalidity are also defined.

²³ Article 40/1.



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7.2.4. Criminal Liability

If there are grounds and evidences for violation of the Albanian Penal Code, this information should be conveyed by the IPA body to the competent authorities for proceeding with investigation, and potentially barring criminal responsibility.

8. Awareness & Training

8.1. Awareness

The first step of effective prevention and elimination of CoI requires awareness. It requires common understanding the existing CoI definitions and requirements set in provisions of various EU and National pieces of legislation, it is required that all staff signs a Declaration of Awareness of Conflict of Interest. This declaration should provide the definitions, references to the main applicable pieces of national legislation and summary of the main responsibilities of the staff member in avoiding and managing the CoI. A sample declaration is provided in *Annex 7 Declaration of Awareness of Conflict of Interest*.

8.2. Accessible Guidance Materials

8.2.1. Frequently Asked Questions (FAQ)

In order to support common understanding and ensure effective on avoiding and managing conflicts of interest a FAQs for quick reference is provided in *section*



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Annex 8 Frequently Asked Questions .

8.2.2. Reporting contact information

CoI reporting is addressed immediately to the IPA staff superior.

CoI assistance can be provided from: (i) your superior or (ii) irregularity officer or (iii) the head of the institution.

(e.g., ethics office, CoI Officer email address, hotline or designated contact points)

8.3. Regular Conflict of Interest Training Sessions in the context of IPA

The topic of the CoI should be included in the IPA bodies trainings plans (for individual training or combined training with other related topics, like ethics and integrity or irregularities) – regular (compulsory at least annually) training for all staff members on Prevention of Conflict of Interest. It should envisage interactive training approach, working in groups and sharing knowledge about legal requirements, concept, procedural aspects (among others the requirements of timely disclosure, and the consequences of non-compliance) and practical examples illustrating the different types of CoI. This training should also be part of the inception trainings to be enrolled IPA bodies newcomers. Regarding the topic in the Annex 12 there are some possible training topics valid for all staff members based on the experience

**MINISTRY OF FINANCE
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CoI can occur at any stage of the of the IPA lifecycle: covering all IPA bodies within the MCS. It includes: (i) Programming and implementation (programming and monitoring, controls in project selection, procurement, contracting, payment request verification (including desk review and OTS), payment, accounting, monitoring the sustainability rule compliance, etc.; (ii) Management Structure functions and Audit (supervision of the ICS and entrustment compliance, certification of expenditure and accounts; audit); (iii) Horizontal procedures: HR management (incl. recruitment, hierarchal set up during implementation; cooling period; segregation of duties), Risk Management, Irregularity management, etc.

Below are presented unexhaustive examples where and by who potential CoI could occur within this stages/functions. Respective potential interest, direct or indirect, could be related to applicants, candidates, tenderers, suppliers, contractors, recipients, grant beneficiaries, other staff subordinated, staff of other subordinated structural unit within the same organisation or other institution – subordinated or controlled by the institution of the potential subject to the CoI.

IPA Stages	Positions concerned by Possible Conflict of Interest
Programming and implementation	
Programming	Design of the programme: Possible CoI of the experts who develop the programme document, particularly with regards design eligibility criteria or where Direct Beneficiaries are envisaged Programme Monitoring and amendment: Possible CoI of members the Monitoring Committee with regards the decisions of approval, evaluation, amendment of the IPA Programme
Implementation	Design of the Calls for Proposals: Possible CoI of the experts/members of MC who design, endorse or approve the Calls for Proposals parameters IPARD projects' selection: Possible CoI of the staff involved in the verifications (documentary and on-the-spot) carried out before recommending decision; members of IPARD Reasonableness of the Cost Evaluation Committee (including external experts; representatives of the management taking the decision and signature/modification of the IPARD contract. IPARD Payment Authorisation: Possible CoI of the staff responsible for checks (documentary and on-the-spot) of the payment claims by the recipients.



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Award procedures (Procurement, Twinning or Grant, including secondary procurement): **Possible CoI²⁴** of the staff involved in the: preparation of the award procedure documents preparation (incl. Contact Notice, Terms of References and Technical Specifications, Guidelines for Grants Applicants), opening and evaluation of tenders/grant applications (Ev. Committee with voting rights and observers; Assessors), signing/modification of the contract/grant agreement, potentially related to the applicants, candidates, tenderers, suppliers, contractors, recipients, grant beneficiaries

Monitoring of Contracts Implementation: **Possible CoI** of the staff involved in the monitoring of contract implementation and executing control (documentary check of reports/certificates, etc. and on-the-spot) of execution of the works/services/supplies/grants/twinning contracts, potentially related to the staff of the supervised bodies or the contractors/grant beneficiaries

Payment, Accounting, Debt Management: Possible CoI of the staff involved in the payments and accounting and debt management.

Control of the sustainability of the projects: Possible CoI of the staff responsible for checks (documentary and on-the-spot) of the compliance of the sustainability requirements of the IPA funded projects.

Management Structure functions and Audit

Management Structure Supervision of the continued fulfilment of entrusted internal control system under IPA/IPARD: Possible CoI of the staff of the NAOSO with during the execution of the supervision to the IPA/IPARD bodies, potentially related to the staff of the supervised bodies or the contractors/grant beneficiaries/IPARD recipients of the projects.

Certification of expenditure and accounts: Possible CoI of the staff of the AB/NF with during the execution of the certification of expenditure of the IPARD Agency/IBFM, potentially related to the staff of these bodies or the contractors/grant beneficiaries/IPARD recipients of the projects which expenditure is subject to certification.

Audit Audit: Possible CoI of auditors within the different stages of the planning (annual audit risk assessment and plan); execution of audit; reporting and follow up of audit findings, potentially related to the staff of the audited

²⁴ There are specific situations involving participants that qualify as cases of 'grave professional misconduct' and not as conflicts of interest under Article 61 FR 2108: where the **participant in an award procedure enters** into an agreement with other persons or entities with the aim of distorting competition; (ii) where the participant attempts to unduly influence the decision-making process of the contracting authority during a procurement procedure, for example by denigrating another participant or by misrepresenting the expertise and resources available to the participant; (iii) where the participant tries to obtain confidential information that may give them undue advantages in the procedure.



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bodies or auditees - the contractors/grant beneficiaries/IPARD recipients of the audited population.

Horizontal Procedures

Human Resources Management	<p>HRM procedures: Possible CoI of the entire staff and management with regards conflict of interest during the following stages:</p> <ul style="list-style-type: none">- Recruitment: possible CoI of the staff involved in the development of the recruitment selection documents (incl. exams/test/interview questions) and exaction of the recruitment selection- Work implementation: possible CoI of the superior staff potentially related to their inferior staff/staff controlled or dependent on them.- Leaving the job: possible CoI of the staff left who did not comply with the legal requirements for not dissemination IPA related information to third parties and observing the cooling-off period.- Segregation of duties: possible CoI of entire staff not observing the entrusted segregation of duties when formally or informally acts as replacement of missing colleagues or help in high work volume periods.
Risk Management, Irregularity management, etc.	<p>Risk Management, Irregularity management: Possible CoI of the staff responsible for checks/tasks within the Risk Management, Irregularity management, other horizontal procedures.</p>



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Annex 2 EU and National Legislation related to Conflict of Interest

1. EU Legislation

Applicable EU legislation consisting of provisions regulating or relevant to CoI is as follows:

- Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union) – as referred to in the IPA III FFPA²⁵
- Practical Guide to Contract procedures for EU external actions (PRAG).

2. National Legislation

The national legislation consisting of provisions regulating the CoI or relevant to the CoI is as follows:

- IPA III Financial Framework Partnership Agreement
- IPARD III Sectoral Agreement
- Financing Agreements
- Law on the Prevention of Conflicts of Interest in Public Functions No. 9367, dated 7.4.2005 amended- specific Law for CoI, covering:
 - CoI and private interest definitions and obligations of officials
 - Procedures and means for identification and registration of conflicts of interests, incl. Declaration of Conflicts of Interest
 - Private Interests restrictions for prevention of CoI - including restrictions for receiving gifts, favours, promises or preferential treatments
 - Treating and Resolving of Conflicts of Interest
 - Invalidity of acts taken in the conditions of conflict of interests and consequences
 - Institutions responsible for preventing conflict of interest and Sanctions

In addition, the CoI provisions are present in a number of other pieces of national legislation:

- Law for declaration and audit of assets, financial liabilities of elected and certain public servants No. 9049, dated 10.4.2003 amended
 - Defines rules for declaration and control of property, of the legitimacy of the sources of its creation, financial obligations for the elected, high and medium public servants, for their families and for persons connected to them.
- Law No. 60/2016 on Whistleblowing and Whistleblower Protection
 - Defines the process of whistleblowing and whistle-blower protection
- Law No. 152/2013 on Civil Servants, amended.
 - Prohibits civil servants from engaging in activities that create conflicts of interest.
 - Mandates declaration of financial interests and requires approval for external activities.
 - Obliges the civil servants to Declare Interests, Assets and paid activities they engage in outside their duties

²⁵ Among other FR provisions, Article 18 Procurement procedures, grants award procedures and other procedures stipulated that “Assistance under IPA III shall be managed in accordance with the provisions of the Financial Regulation.”.



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- Administrative Procedures Code Law No. 44/2015, amended.
 - Defines situations where officials must recuse themselves due to personal, financial, or family interests.
 - Requires self-declaration and outlines exclusion procedures for conflicts of interest.
- Decision No. 867/2014 On Cooperation between Public Institutions, amended.
 - Establishes guidelines for avoiding conflicts of interest in inter-institutional cooperation.
 - Requires exclusion of officials from decision-making when a potential conflict is identified.
- Law No. 138/2015 on Integrity in Public Functions, amended.
 - Disqualifies individuals with criminal records or financial conflicts from holding public office.
 - Prohibits candidates for public office to have: Personal financial interests that could influence their duties; Pending legal actions related to corruption or abuse of office; Unlawful political or business affiliations.
 - Defines restrictions on Political and Business Activities (i) Public officials cannot hold stakes in businesses that receive government contracts; (ii) cannot hold managerial positions in private enterprises while serving in public office; (iii) Political party involvement is restricted for high-ranking officials.
 - Enforces penalties for failure to declare conflicts of interest.
- Decision No. 17/2016 establishes detailed rules for the implementation of restrictions under Law No. 138/2015, titled “On Ensuring the Integrity of Persons Elected, Appointed, or Exercising Public Functions”, amended.
 - Implements integrity screening for elected and appointed officials.
 - Requires mandatory self-declarations and verification of backgrounds to ensure impartiality.
- Law No. 9131/2003 on Ethical Rules in Public Administration, amended.
 - Defines conflict of interest including its assessing, preventing
 - establishes ethical obligations for public employees
 - Restricts external engagements and gift acceptance to prevent bias.
 - Post-employment restrictions (including 2-year cooling period).
 - Imposes disciplinary sanctions for violations.

3. Any relevant local directives or ministerial orders.



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Annex 3 Examples of conflicts of interest.

Box 5 Conflict of Interest of the IPARD Reasonableness of the Cost Evaluation Committee member

Example A Recommendations by IPARD Reasonableness of the Cost Evaluation Committee

- An individual (Person A) owns a business which provides paid consultancy advice to companies looking to submit bids for the IPA programme.
- As a subject matter expert, Person A also sits as an external expert on an IPARD Evaluation Committee which provides assessment in the context of the reasonableness of the prices of the proposals, which is a key element of the selection of projects for funding under IPARD programme.
- An organisation that Person A's consultancy business has recently advised, applies for funding.
- Person A has a conflict of interest between their role advising an applicant for funding and their role sitting on the Evaluation Committee considering the reasonableness of the prices of this application. These types of conflicts can be quite common but can be easily managed by parties declaring their interests and, where necessary, absenting themselves in order to avoid any bias in decision making.

Box 6 Conflict of Interest at IBFM

Example B Decision making by IBFM

- A senior member of staff working in an IBFM (Person B) is responsible for control of IPA funded Contract where a close relative/ friend is employed in a subordinated to her/him position.
- A recent verification visit identifies a number of irregularities which results in the application of a significant financial penalty to the Project. Rather than process the irregularities in line with the Department's guidance on corrections, Person B sets about exerting undue pressure on the monitoring team to remove their finding of irregularities and fails to provide any evidence to support their removal.
- In the above example, the correct process would be for Person B to deal with the irregularities in line with the Irregularity Procedure. However, Person B allows their close relationship with the Project to interfere with this process which results in biased decision making.

Box 7 Conflict of Interest related to staff at different hierarchy levels in one and the same organisation

"It transpired that the two companies awarded research projects under Horizon were actually managed by one individual using strawmen to carry out the fraud. OLAF uncovered multiple schemes pivoting around the manager which included conflict of interests among the employees who were practically all relatives or close friends of the manager; part of the employee's salary being paid back to the manager as a kickback; and the beneficiaries paying a sizeable success fee to the manager."

Sources: OLAF Report 2023

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In Czechia, under a project to purchase new compressed natural gas buses to replace old ones, it was found that the beneficiary and the winning bidder were both owned and controlled by the same group. The beneficiary did not require potential bidders to have any experience, which was very unusual given the references usually required for similar projects. The beneficiary did not sufficiently demonstrate that it had taken appropriate measures to prevent, identify and remedy conflicts of interest arising from ownership and personal ties with the winning bidder and tenderer. This point was not covered in the audit authority's checklist.

In Romania, a company received EU support for the restructuring and conversion of vineyards over a 15-hectare area leased free of charge from a physical person for a period of 15 years, after which the vineyard would be returned to that person. Romanian law requires beneficiaries to take all the necessary measures to avoid situations giving rise to conflicts of interest, in particular where connections exist between beneficiaries and their suppliers. The beneficiary signed a contract with another company for mechanical and manual weeding of the plantation and the installation of a support system. It was found that the owner of the land was the sole shareholder and administrator of this supplier. This case was sent to OLAF for further investigation.

Source: European Court of Auditors (ECA) Special Report 2023

Box 9 Mayor acted for the contracting authority and the winning bidder

"In EU member state, the contracting authority for an ERDF project an municipality was audited which launched a public procurement procedure to renovate a municipal daycare facility, as the value was above the national threshold. However, they failed to publish a contract notice.

The intermediate body found that the mayor of the municipality was involved in the preparation of the procurement procedure and in the decision-making process, while also acting on behalf of a company owned in full by the municipality and exercising ownership rights over the winning company. He thus acted on behalf of both the contracting authority and the winning bidder.

The audit authority detected and correctly established the existence of a conflict of interest. However, instead of applying a financial correction of 100 % as specified by the Commission guidelines, the audit authority only applied a 10 % correction to the costs affected by this irregularity. It was considered that the audit authority unduly justified the inadequate mitigation of the conflict of interest on the grounds of extenuating circumstances."

Source: ECA Annual Report 2023

Box 10 Successful tenderer co-drafted specifications

"An operation in EU member state involving the construction of an automated bicycle parking tower was audited. The contracting authority, a public body, conducted a simplified open public procurement procedure. Under such procedures, authorities must treat economic operators equally, avoiding discrimination and conflicts of interest. It was found that part of the technical specifications was drawn up by a company that was co-owned by the sole bidder and included as the key subcontractor. The general part of the tender documentation showed an image of the winning bidder's product and



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included a general disclaimer that if references to concrete brands or specific products are mentioned in the tender documentation, ‘equivalent’ solutions are allowed. Contrary to this general statement, the specifications were tailor-made to the sole bidder’s product in such a detailed way that de facto did not allow for equivalent products to be awarded the tender. For example, the specification set a requirement for exactly 118 bike places, the capacity of the product of the sole bidder that drew up the technical specifications, even contrary to the feasibility study which set out a number of 126 bikes. The technical specifications of the subject matter were not objectively justified by the contracting authority’s needs as required by the national law. By awarding the contract to the only bidder that had co-drafted the discriminatory technical specifications and ensured for itself an advantage against other manufacturers of bike towers on the EU market, the contracting authority accepted a conflict of interest and breached national public procurement law.”

Source: ECA Annual Report 2023

Box 11 Examples of Conflict of Interest related to Award Procedures

1. Involvement in the preparation of documents used in the award procedure

There may be cases where the contracting authority (IPARD Agency, IBFM, grant beneficiary executing secondary procurement – e.g. recipient municipalities in public measures under IPARD) contracted, for example, outside expertise to help prepare documents to be used in an award procedure (e.g. drafting the tender specifications of a subsequent procurement procedure) and where the service provider themselves decide to take part in the same award procedure as a participant.

The contracting authority/provider of EU support is responsible for ensuring the participants involved in preparing the documents and other participants are treated equally. That is why participant involved in preparing the documents must be rejected from the subsequent procedure.

In practice, it is recommended to avoid rejection by putting in place measures to avoid distortion of competition. In particular, the information given to the service provider for the preparation of documents to be used in an award procedure should also be communicated to the other participants in the second procedure. Besides, the time limit for receipt of tenders/applications of the second procedure should be long enough to ensure that all participants are well informed.

2. Professional conflicting interests (for procurement only)

Economic operators participating in procurement procedures should not have conflicts of interest that may negatively affect the performance of the contract. This is usually referred to as a **professional conflicting interest** and should be treated at the selection stage in order to prevent cases where, **for example, an economic operator is awarded a contract to: (i) evaluate a project in which they have participated in or (ii) to audit accounts which they have previously certified.**

If the economic operator is in such a situation, the corresponding tender is rejected. These cases often arise in evaluation or audit framework contracts, where the contractor can have a professional conflicting interest for a specific contract.

Box 12 Examples of Conflict of Interest with relation to the principle of separation of functions



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1) A staff member who was involved in selecting a project is later tasked with auditing its implementation. In carrying out the audit, the staff member may believe that their support for the selection of the project should be borne out by a positive report on its implementation. Even if there are a large variety of reasons why a selected project could derail, the absence of a clear separation of functions may lead to a situation of conflict of interest.

2) The audit authority implements some technical assistance operations. When such operations are included in the sample to be audited by the audit authority, the audit of such operations should be carried out by a different independent auditor to ensure functions are adequately separated. Similar situations could occur, for example, at the level of a managing authority of a given programme in which the same managing authority is also beneficiary of the funds. In those cases, the tasks of the managing authority should be transferred to a different service and arrangements for the evaluation of the grant application, approval of the grant decision and management verifications must ensure separation of functions.

3) The economic department within a regional ministry sends a voting member to a selection committee:

Scenario 1: The environmental department of a regional ministry applies for a project, the selection of which is to be decided by the economic department of the same ministry. Assessment: i) no conflict of interest - if no hierarchical relations exist between the economic and environmental departments; and if the economic department has not been involved in preparing the project undertaken by the environmental department; and there is clear separation of functions.

Scenario 2: The economic department applies for a project. Assessment: conflict of interest.

Box 13 Undeclared conflicts of interest lead to financial corrections

1. The spouse of a contracting authority's desk officer in charge of monitoring a procurement procedure works for one of the bidders.

2. A person owns shares in a company. This company takes part in a tendering procedure in which this person is appointed as a member of the evaluation committee.

3. The head of a contracting authority has spent a week's holiday with an executive director of a firm which bids in a tendering procedure launched by the contracting authority.

4. The husband of a member of an evaluation committee is a senior employee of one of the tenderers, this member has to inform the contracting authority and withdraw from the committee as well as from the procurement procedure in general.

Source: European Commission, OLAF, Identifying conflicts of interests in public procurement procedures for structural actions, November 2013.



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Examples of Conflict of Interest in IPA/IPARD Structures

Managing Authority (MA)

1. An MA official Staff is involved in the technical evaluation of a project where his spouse is the director of the beneficiary organization.
2. An MA official staff working on the preparation of calls is also a board member of an NGO planning to apply.
3. An MA monitoring expert is also a consultant for a company that previously won a contract.
4. An MA staff member proposes changes to selection criteria that benefit a former employer of them.
5. An MA specialist drafting the annual report was previously part of the implementation team of an audited project.

IBPM

1. An IBPM EXPERT helps set criteria for a grant while having close ties with a potential beneficiary.
2. An IBPM expert is invited or working to evaluate a project where the company of a personal and business relative's company has applied.
3. An IBPM officer previously worked for a consultancy now contracted for technical assistance.
4. An IBPM representative supervises a project in which he was involved during the application phase.
5. An agriculture sector specialist in IBPM supports an application prepared by their personal or business relative.

IBFM / CFCU

1. A CFCU staff member prepares tender documents for a company where their personal or business relative works.
2. A CFCU officer is involved in verifying contracts for a body where he previously worked.
3. A financial expert accesses audit documents of a body where he is a hidden shareholder.



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4. A CFCU official is on an evaluation committee while having close ties with one of the bidders.
5. A financial unit head had past cooperation with a contractor and did not declare it.

NAOSO

1. A NAOSO representative fails to declare that their personal or business relative is a contractor in a monitored project.
2. A NAOSO verification team member previously contributed to the manuals of the structure now under review.

Accounting Body (AB)

1. The AB Director has ties (family, personal and business) with an accountant of a project receiving funds.
2. An AB staff member verifies payments for an NGO where he was once a member.
3. A financial expert in AB fails to declare shareholding in a contracted company.
4. An AB official signing financial reports is also on the board of a beneficiary institution.
5. An AB accountant had prior cooperation with a beneficiary and did not disclose it.

NIPAC

1. The NIPAC advisor contributed to drafting a project he now supervises.
2. A NIPAC officer recommends a project proposed by a personal or business relative.
3. A NIPAC officer has ties (family, personal and business) with the manager of an approved project.
4. A NIPAC employee is a board member of an organization benefiting from IPA/IPARD.

Audit Authority (AA including IA)

1. An AA auditor is assigned to audit a project where he previously worked (for a period of 2 years).
2. An internal auditor (IA) audits a unit where their personal or business relative is the manager.



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3. A member of the audit team fails to declare ties with an IPA/IPARD-funded NGO.
4. An internal audit specialist had past cooperation with an executor of the project under review.

ARDA (IPARD)

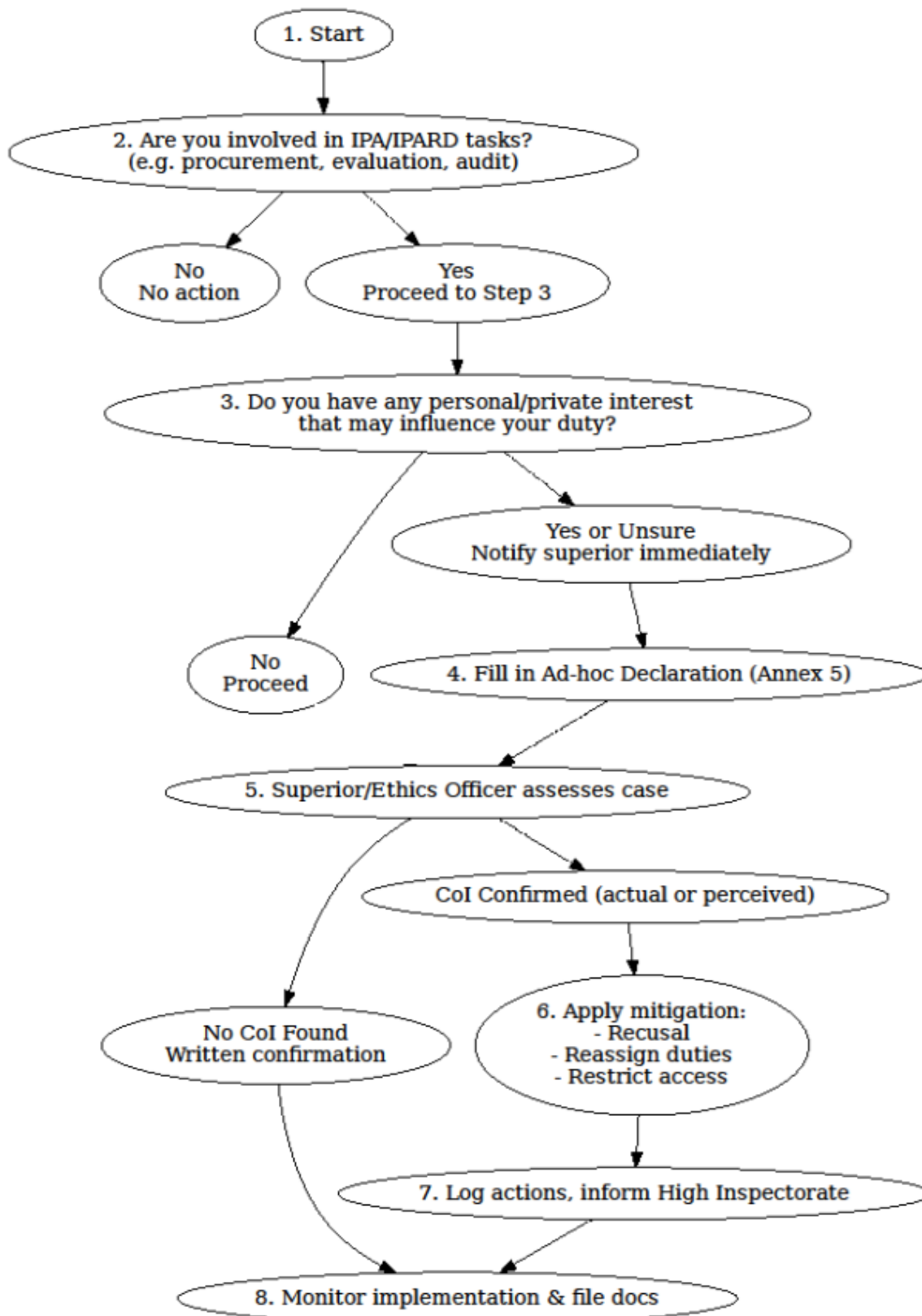
1. An ARDA inspector has ties (family, personal and business) with a grant beneficiary and fails to declare it.
2. An ARDA employee prepares application documents for individuals with personal, family and business ties.
3. A field inspector is seen communicating with an applicant before a decision is made.
4. An ARDA monitoring specialist has previously worked with a consultant assisting an applicant.
5. An ARDA staff member is part of an informal group promoting specific beneficiaries.

Annex 3.1: Conflict of Interest Identification & Management – Step-by-Step Guide and Preventive Checklist:

Following is a simplified forseen flowchart designed to provide a clear, step-by-step overview for identifying, declaring, escalating, and managing conflicts of interest within IPA/IPARD structures. In order to serve as a practical reference tool to support everyday operations



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Preventive Checklist for Staff & Supervisors:

A. General Awareness

- ☐ I have read and understood the definitions of actual, perceived, and potential CoI.
- ☐ I have participated in the latest CoI training or awareness session.
- ☐ I know who to contact in case of uncertainty (Irregularity Officer, Supervisor).

B. Personal Interest Screening

- ☐ I have reviewed whether I (or close family) have:
 - ☐ Ownership in or close ties to any applicant, contractor, or grant beneficiary.
 - ☐ Previous employment or consultancy roles with IPA applicants.
 - ☐ Ongoing negotiations for employment with entities involved in IPA procedures.
- ☐ I have checked for possible non-financial interests (political, emotional, personal friendships) that could be perceived as CoI.
- ☐ I have considered whether any interests might arise in the future (post-employment offers).

C. Procedural Integrity

- ☐ I have submitted:
 - ☐ My initial CoI declaration.
 - ☐ My annual CoI declaration (by the required deadline).
 - ☐ Any relevant ad-hoc declarations for new or emerging interests.
- ☐ I have signed the required declarations before participating in evaluation committees or award decisions.
- ☐ I have recused myself from any process where I have (or may be perceived to have) a conflict.
- ☐ I have not shared sensitive or insider information with unauthorized parties.



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D. Role-Specific Responsibilities (Supervisors & Heads of Units)

- ☐ I have reminded my team to submit declarations and attended awareness training.
- ☐ I have reviewed staff roles for possible overlaps or CoI risks (especially in HR, procurement, evaluation).
- ☐ I have properly documented and escalated any declarations or reports of CoI.
- ☐ I have taken appropriate mitigation measures (role reassignment, restricted access).

E. Red Flags and Ongoing Vigilance

- ☐ I have scanned recent procurements and calls for applications for possible CoI indicators (recurring winners, close connections).
- ☐ I am alert to signs of favoritism, biased decisions, or improper influence.
- ☐ I am aware of my obligation to report any suspected undeclared CoI, even if it's not my own.

Annex 4 Declaration of Absence of Conflict of Interest and Confidentiality

I, the undersigned,

_____ <name>
_____ <position>
_____ <structure and institution>,

Declare that I am aware that:

8. To the best of my knowledge, I have no conflict of interest as per the legal CoI definitions:

IPA FFPA²⁶: "Conflict of interests means that the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest."

Law on the Prevention of Conflicts of Interest in Public Functions: "Conflict of interest" is a situation of conflict between the public duty and the private interests of an official, in which

²⁶ Definition deriving from the IPA III FFPA, Article 51 – Protection of the financial interest of the Union.



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s/he has private interests, direct or indirect, that influence, may influence, or appear to influence the improper performance of her/his public duties and responsibilities.”.

9. There are no facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence in the eyes of any party with regards the implementation of my IPA and/or IPARD duties.
10. If I discover during the implementation of my IPA and/or IPARD duties and functions that such a conflict exists, or could objectively be perceived to exist, or could arise, I will inform my superior without delay.
11. I am aware that official or any subject who provides substantiated information on cases of conflict of interest not declared by the officials subjects of this law shall be protected as per Law on Prevention of Conflicts of Interest in Public Functions²⁷.
12. I understand that the facts declared in this declaration might be subject to verification.
13. I also confirm that I will keep all matters entrusted to me confidential. I will not communicate outside of the working information/reporting lines as per the entrusted MoP, any IPA related information that is revealed to me or that I have discovered.
14. I am aware that the declarations regarding conflicts of interest and all documents accompanying them are official documents. Providing false data in them constitutes a criminal offense and is punishable under the legislation in force.

Name and Position:

Signature:

Date:

²⁷ Article 20 of the Law on Prevention of Conflicts of Interest in Public Functions.



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Annex 5 Declaration of Ad-hoc Conflict of Interest

<this is exemplary, not compulsory format of reporting CoI>

I, the undersigned,

*<name>
<position>
<structure and institution>,*

In compliance with the definitions and the requirements of the IPA FFPA and the Law on the Prevention of Conflicts of Interest in Public Functions I Declare that I that:

During the implementation of my IPA duties and functions, on <date>, I discovered and herewith I declare without delay that a conflict *<choose, as appropriate – exists, or could objectively be perceived to exist, or could arise>*, as described below.

I have the following personal (private) interest (or other reasons involving family, emotional life, political or national affinity, economic interest, direct or indirect):

<please describe the identified private interest

>,

which compromise, may compromise, or appears to compromise the **impartial and objective exercise of the assigned to me IPA functions:**

<please describe the IPA functions and tasks concerned

>.



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I am aware that official or any subject who provides substantiated information on cases of conflict of interest not declared by the officials subjects of this law shall be protected as per Law on Prevention of Conflicts of Interest in Public Functions²⁸.

Name and Position: _____

Signature: _____

Date: _____

Annex 6 “Red flags” on Conflict of Interest

Adjusted excerpt from a document “Red Flags on Detection of Irregularities” to (Annex I.5-01 IPA III MoP Chapter CI.5 Irregularity Management)

The indicators for potential fraud (so-called “red flags”) have been developed based on real cases of fraud going back to the 1990s²⁹. “Red flags” indicate where attention should be focused (e.g. on which operations and which aspects of such operations) and when investigation is warranted. The list of red flags is indicative rather than comprehensive.

Grant Contract and Public Procurement Conflict of Interest– schemes and red flags

Attempts at fraud often concern the process of procurement (e.g. bribes to secure contracts, kickbacks from contractors to contracting authority staff, conflict of interest). Related red flags with regards conflict of interest are listed in the table below.

Grant contract and public procurement Conflict of Interest – schemes and red flags	
Scheme	Red flags
Undisclosed conflict of interest: A situation of conflict of interest can occur if an employee of the contracting organisation has an undisclosed interest in a contract or recipient/grant beneficiary/contractor. A potential conflict of interest might be immune from legal action if it is fully disclosed and approved by the employer ex-ante in a timely manner. If the CoI is related to fraud, an employee might e.g. secretly own a supplier or a	<ul style="list-style-type: none">▪ Relationships/acquaintance between grant beneficiary/contractor/recipient and IBFM/IPARD Agency.▪ Capability of the contractor to influence the decision-making process of the contracting authority.▪ Unexplained or unusual favouritism of a particular contractor.▪ Continued acceptance of high-priced, low-quality work, etc

²⁸ Article 20 of the Law on Prevention of Conflicts of Interest in Public Functions.

²⁹ Sources among others: EC’s Information Note on Fraud Indicators for ERDF, ESF and CF from February 2009. The table below sets out relevant red flags grouped in “clusters”; the main sources are the EC’s papers on 1) Identifying conflicts of interests in the Agricultural Sector from December 2015, and 2) Identifying conflicts of interests in public procurement procedures for structural actions from November 2013.



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Grant contract and public procurement Conflict of Interest – schemes and red flags	
Scheme	Red flags
contractor, set up a shell company through which he or she purchases supplies at an inflated price or have an undisclosed interest in property sales or leases.	<ul style="list-style-type: none">▪ Contracting authority's employee fails to file or complete conflict of interest declaration▪ Contracting authority's employee declines promotion to a non-procurement position▪ Contracting authority's employee appears to conduct side business.

Attempts at fraud often involve a conflict of interest, for example, on the part of contracting authority's staff who have a relationship with potential tenderers or grant beneficiaries (incl. IPARD recipients). Conflicts of interest often underpin fraud related to applications for funding and procurement (see the relevant sub-sections above).

Conflicts of interest – red flags per cluster	
Cluster	Red flags
General	<ul style="list-style-type: none">▪ Contracting Authority's employee fails to file or complete conflict of interest declaration
Grant award	<ul style="list-style-type: none">▪ Absence of guidelines to avoid possible conflict of interest or segregation of functions in the IPA body▪ Relationships/acquaintance between grant beneficiary/recipient and the IPARD Agency/CFCU (Contracting Authority, CA) staff▪ Few applicants for a call for proposals▪ Few experts in the field, who know each other and close relationships between the key actors▪ Experts from the IPA bodies recently moved to companies/grant beneficiaries.▪ IBPM/IPARD Agency civil servants working in authorisation departments are included in a project team of a TA project that will be subject to authorisation.▪ Many similar projects awarded to the same Grant beneficiary/Recipient.
Procurement - preparation and launch of procedures	<ul style="list-style-type: none">▪ Previous instances showing the capability of the contractor to influence the decision-making process of the CA.▪ Relationships/acquaintance between CA staff and grant beneficiary/contractor.▪ The person in charge of drafting the tender documents / a senior official insists on hiring an outside firm to help draft the documents although it is not necessary.▪ Two or more preparatory studies are requested on the same subject from external firms, and someone puts pressure on staff to use a particular one of these studies in drafting the tender documents



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Conflicts of interest – red flags per cluster	
Cluster	Red flags
	<ul style="list-style-type: none">▪ The person in charge of drafting the documents organises the procedure in such a way that there is no time to revise the documents carefully before the tender procedure is launched▪ Two or more contracts for identical items are issued over a short period of time for no apparent reason, resulting in a less competitive procurement method being used.▪ A negotiated procedure is chosen, even though an open procedure is possible/required▪ A procurement notice is published in a local newspaper although the value of the contract requires different▪ There are unjustified and too strict selection or award criteria that favour a particular firm or bid▪ An employee of the CA has relatives who work for a firm which may bid▪ An employee of the CA had worked for a firm which may bid, just before joining CA▪ Unusual behaviour of an employee insisting on getting information on the tendering procedure although he is not in charge of this procedure.
Procurement – tendering procedures, evaluation, final award	<ul style="list-style-type: none">▪ A member of the evaluation committee tries to mislead or put pressure on the other members to influence the final decision, by giving a wrong interpretation of the rules.▪ Same address/shareholder for the grant beneficiary/recipient and a supplier▪ The evaluation committee members do not have the necessary technical expertise to evaluate the submitted bids and are dominated by one individual▪ Some of the information provided by the winning bidder relates to CA staff (e.g. the bidder address coincides with one of the employee's address)▪ The technical specifications are very similar to the winning bidder's product or services - especially if the specifications include a set of very specific requirements that very few bidders could meet.▪ Three different tenders have been won by the same contractor▪ There are many cancelled procurement procedures.
Procurement - performance, amendment and modification of contracts	<ul style="list-style-type: none">▪ Accepted replacement of the supplier after approval of one of the submitted three offers under IPARD▪ Contradiction in rigorous selection criteria before contracting and a low level of requirements after the signature of the contract▪ Unusual acceptance of non-compliance with contractual requirements during the execution of the contract – e.g. easy acceptance of essential contract modifications at the request of the contractor; unusual/unbalanced contractual provisions



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Conflicts of interest – red flags per cluster	
Cluster	Red flags
	<p>compared to the usual practices on the market regarding terms of delivery or reception, low or no guarantees and quality requirements, extremely good payment conditions offered (e.g. 100% in advance or similar); poor contract execution does not result in application of strict penalties</p> <ul style="list-style-type: none">▪ Numerous or questionable change orders for a specific contractor are processed by one and the same member of the staff▪ The quantity of items to be delivered is reduced, without a commensurate reduction in payment.



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Annex 7 Declaration of Awareness of Conflict of Interest

Conflict of Interest

DECLARATION OF AWARENESS

I, the undersigned,

<name>
<position>
<structure and institution>,

DECLARE THAT I AM AWARE THAT:

1. The definitions of conflict of interest states as follows:

IPA FFPA³⁰: "Conflict of interests (CoI) means that the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest."

Law on the Prevention of Conflicts of Interest in Public Functions: "Conflict of interest" is a situation of conflict between the public duty and the private interests of an official, in which s/he has private interests, direct or indirect, that influence, may influence, or appear to influence the improper performance of her/his public duties and responsibilities."

2. In the context of avoiding CoI I have obligations including prevention, identification and resolving of CoI.
3. I am aware that I am obliged to avoid situations of CoI and report immediately CoI situations or the situations which may objectively be perceived as CoI. The main aspects of my obligations with regards CoI in terms of prevention, among others, are:
 - Declaration/s in terms of CoI as per the national legislation and entrusted IPA MoP: (i) upon starting the job and annual update - Declaration of Impartiality and Confidentiality as per the format from the entrusted MoP and HRM rules; (ii) where applicable: as a member of Tender Evaluation Committee - Declaration of Impartiality and Confidentiality, as per the format of entrusted MoP and applicable PRAG rules; (iii) where applicable: as a member of Tender Evaluation Committee - Declaration of Impartiality and Confidentiality, as per the format of entrusted MoP and applicable PRAG rules
 - Prohibition on concluding contracts³¹
 - Prohibitions on income derived due to particular functions³²
 - Prohibition of receiving gifts, favours, promises, or preferential treatment³³

³⁰ Definition deriving from the IPA III FFPA, Article 51 – Protection of the financial interest of the Union.

³¹ Article 21 of the Law on Prevention of Conflicts of Interest in Public Functions

³² Article 22 of the Law on Prevention of Conflicts of Interest in Public Functions

³³ Article 23 of the Law on Prevention of Conflicts of Interest in Public Functions



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- Restrictions on the interests of persons connected to an official³⁴
- Indirect ownership of interests³⁵
- Declaration and audit of assets, financial liabilities of elected and certain public servants³⁶
- Post-Employment Restrictions (incl. not using or disseminating confidential information and 2-year cooling off period after leaving the IPA position)³⁷.

I am also aware of the respective definitions and provisions of other legal act: Law No. 9131/2003 on Ethical Rules in Public Administration; Law No. 138/2015 on Integrity in Public Functions; § Law No. 152/2013 on Civil Servants Administrative Procedures Code.

Identification

4. I need to declare in advance of the existence of my private interests that may cause a conflict of interest through **ad-hoc self-declaration** to my superior (or to the Chairperson of the Evaluation Committee if I am a member/observer) when I identify such or when requested by superior or the superior institution.
5. I need to report to my superior information of private interests of the IPA structure staff that may cause a conflict of interest, when I am aware of such.
6. Any official or any subject who provides substantiated information on cases of conflict of interest not declared by the officials subjects of this law shall be protected as per Law on Prevention of Conflicts of Interest in Public Functions³⁸.

Resolving

7. The CoI must be resolved as per Articles, 37-39 of the Law on Prevention of Conflicts of Interest in Public Functions, applying timely, appropriate and feasible method/s, among others: transferring or alienating private interests and/or excluding from decision-making and/or resigning from private duties, functions or engagements that conflict with public duties or resigning from public office in cases of ongoing conflicts, etc.

Consequences

8. All CoI cases and solutions will be reported by IPA/IPARD structures to the NAO regarding the measures taken for handling and resolving conflict-of-interest cases.
9. An unresolved objectively perceived conflict of interest constitutes an irregularity and needs to be reported by me within the requirements of the Irregularity Chapter of the MoP
10. In accordance with the Irregularities Chapter of the Manual of Procedures and the relevant legislation I am obliged to transmit immediately to the Irregularity Officer or, where applicable

³⁴ Article 24 of the Law on Prevention of Conflicts of Interest in Public Functions

³⁵ Article 25 of the Law on Prevention of Conflicts of Interest in Public Functions

³⁶ Law for declaration and audit of assets, financial liabilities of elected and certain public servants

³⁷ As per Articles 16 and 17 of the Law No. 9131/2003 on Ethical Rules in Public Administration

³⁸ Article 20 of the Law on Prevention of Conflicts of Interest in Public Functions



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to the other positions/bodies within the direct reporting³⁹, any information for discrepancy, inconsistency or infringement which may fall within the definition of irregularity or suspected fraud (including Conflict of Interest) that I might be made aware of in relation to actual or suspected cases of irregularities and/or fraud (including Conflict of Interest).

- 11.** If not prevented or timely resolved, the CoI I am involved in might lead to loss of access to the funding or recovery of received funding by contractors, grant beneficiaries or recipients.
- 12.** For non-compliance with the CoI legal requirements, depending on the individual CoI case, I might be subject to administrative sanctions and or criminal liability.

Name and Position:

Signature:

Date:

³⁹ If the person to whom irregularities should be reported is, or is suspected to be, involved in a case of irregularity or if I feel threatened, the information can be submitted directly to: National Authorising Officer or AFCOS within the Ministry of Finance and Economy (Public Financial Inspection Department) or European Anti-Fraud Office (OLAF) within the European Commission



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Annex 8 Frequently Asked Questions

#	Frequently Asked Questions	Answers
1.	Who the guidance applies to?	<p>This CoI Guidance Document is applicable for all IPA MCS bodies: NIPAC, NAO, MS (NAOSO, NF/AB), IPARD Agency, IPARD MA, IPA MAs and IBPMs, IBFM, etc.</p> <p>All MCS bodies and their <u>management and staff</u> of the indirectly implemented IPA is subject to observing the CoI requirements, at all IPA lifecycle stages: programming and monitoring, controls in project selection, procurement, contracting, payment request verification (including desk review and OTS), payment, accounting, monitoring the sustainability rule compliance, etc. plus the horizontal procedures: HR management, Risk Management, Irregularity management, etc. Further details are presented in</p> <p><i>Annex 1 Conflict of Interest throughout the IPA Lifecycle.</i></p>
2.	What constitutes a conflict of interest (CoI)?	<p>I have a conflict of interest if, at any stage of my IPA work, the impartial and objective exercise of the assigned to me IPA functions is compromised <u>for reasons involving</u> family, emotional life, political or national affinity, economic interest or any other direct or indirect <u>personal interest</u>. The CoI is a situation of conflict between my <u>IPA duties</u> and my <u>personal interests</u> as <u>IPA official</u>, in which my personal interests, direct or indirect, influences, may influence, or appears to influence the <u>improper performance of my public duties and responsibilities</u>.</p> <p>In short, I have CoI if my private interests compromise the proper (impartial and objective) implementation of my IPA duties. Further details are presented in section 2 <i>Defining Conflict of Interest</i>.</p>
3.	Is the conflict of interest permanent characteristic or something dynamic?	<p>CoI situation may not be present when I start my duties, but it could emerge after certain changes in the circumstances in my work or my personal life set up. Both work and life are dynamic. That is why we need to be aware of the CoI concept and monitor their interrelation. That way we will make sure that we fulfil our strict obligation to identify in</p>



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		<p>advance potential CoI, declare, eliminate and manage it as to avoid: (i) the negative consequences for us; (ii) the negative consequences for the third party concerned – e.g. tenderer/contractor/recipient; (iii) reputational damages for IPA public body and the EU, EC and Albanian Government.</p> <p>Example of how these work and life related dynamics change the existence of CoI: (i) I am Mr X working in the IPARD Agency or the IBFM, and I am member of the evaluation committee. In 2024 company Y with owner and managing director Ms Z participates in a public tender/IPARD Grant Call for proposals. I am not in a CoI and fill in the Declaration of Confidentiality and Impartiality stating that CoI does not exist. In 2030, the same company Y, with the same owner and Managing director Mrs Z applies in a public tender/IPARD Grant Call for proposals. I am again part of the Evaluation Committee. Nevertheless, I declare that I have conflict of interest as in 2028 I got married to Mrs Z, based on which I am excluded from the Evaluation Committee and another expert has replaced me.</p>
4.	What should I benefit from in a situation, as it to be qualified as CoI.	<p>A conflict of interest can arise even if I do not actually benefit from the situation of my personal interest, as long as it compromises the proper (impartial and objective) implementation of my IPA duties. However, such circumstances must have a certain identifiable and individual link with (or impact on) concrete aspects of my conduct, behaviour or relationships.</p> <p>Example: if I, as member of the evaluation committee, evaluate higher or lower than objectively deserved, a tender of the company owned by a person who I have private interest with, this situation constitutes CoI even if I don't receive money or other advantage for acting so.</p>
5.	When and how to declare a conflict - what steps follow a disclosure	<p>The CoI (actual, perceived or potential) is reported immediately by every member of IPA body staff to your superior</p> <p>Additional details about the ways of declaring of CoI are provided in section 4 <i>Identifying & Declaring Conflicts of Interest</i>.</p>



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5.	What are the potential consequences for non-compliance with the CoI requirements?	<p>Non-compliance with the CoI legal requirements, depending on the individual CoI case, is subject to administrative sanctions (incl. Financial penalties for omitting to sign CoI declarations required by law) and/or disciplinary sanctions and/or possible criminal liability.</p> <p>If not prevented or timely resolved, the CoI I am involved in might also lead to loss of access to the funding or recovery of received funding by contractors, grant beneficiaries or recipients related to the CoI situation.</p>
6.	How manageable CoI are when treated?	<p>If identified on time (before the actual execution of the compromised by the CoI duties) and treated, the CoI can be managed and eliminated through, among others, ceasing all activity in the CoI matter (e.g. exclusion from the Evaluation Committee and replacement with another expert).</p> <p>Other:</p> <ul style="list-style-type: none">- methods for management of CoI are presented in section 5.2 <i>Conflict of Interest Management</i>- the sanctions and consequences of the unresolved situations of CoI are presented in section 7 <i>Sanctions & Consequences</i>.
7.	Can relatives of individuals appointed to public/political positions benefit from IPA funds?	<p>All eligible candidates under IPA (including where applicable, the relatives of individuals appointed to public/political positions) have the right to apply for IPA funds, if they follow the established IPA requirements and if there is no CoI within the execution of the respective public administration staff's duties during the IPA projects lifecycle.</p> <p>Considering the potential risk of influence of the public/political positions, requires more thorough examination of these cases - each case need to be observed individually and analysed about the existence of CoI, as to ensure that CoI or perceived CoI does not exist. These examinations should be properly documented.</p> <p>Example for CoI in this context: the spouse of the owner of the company – applicant for IPARD grant under the IPARD measure 1, is the Head of the MA/the child of the minister</p>

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		<p>of agriculture. In these cases, the CoI exists because of the supervising / monitoring / evaluation functions of the respective positions to the IPARD Agency which could objectively be perceived as risking the impartial and objective exercise of the assigned to me IPA functions.</p>
8.	<p>In order to obtain the IPARD funds what situations would constitute a conflict of interest between the three bidders presented by the applicant within the IPARD grant application (three offers as per Article 11 (2) (f) of the IPARD Sectoral Agreement)?</p>	<p>While the legal definitions of CoI are not directly applicable “between the three bidders” under IPARD private measures (where the applicants for private recipients provide offers from bidders – e.g. suppliers to agricultural machinery), there are important aspects in the broader concept of CoI and sound financial management to be followed:</p> <ul style="list-style-type: none">- Offers not providing objective information from independent bidders: if the offers, provided by the three bidders do not comply with the IPARD requirements as reflected in the Call for Proposals - Guidelines for Applicants (e.g. three bidders are not independent; the three offers do not provide independent and objective information about the market prices of their products, but it is suspected that after coordination between the bidders, the offers have been manipulated or the prices reflected therein have been inflated, etc.), this could lead to rejecting the grant application by the IPARD Agency. Additionally, if there are grounds and evidence for violation of the Albanian Criminal Code, this information should be reported by the IPA body to the competent authorities for proceeding with investigation.- Responsible IPARD Agency staff has personal interest with regards the bidders: the IPARD Agency staff (e.g. members of the Reasonableness of the Cost Evaluation Committee, staff of Project Selection Department, etc.) could be in CoI related to her/his private interest in the context of the three bidders. Non-exhaustive examples for this could be: (i) the spouse of the Project Selection Department staff is owner of one of the suppliers companies from which the applicant provided offer; (ii) the son of a member of the Evaluation Committee, is the owner of one of the supplier’s companies that issued one of the offers.



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9.	What are the situations in which the three bidders would be considered in a conflict of interest?	Please, see the answer above.
10.	Under what circumstances it would be considered that a conflict of interest exists between the bidder(s) and the applicant?	<p><u>Private IPARD measures</u></p> <p>While the legal definitions of CoI are not directly applicable between applicants and the bidders, there are important aspects in the broader concept of CoI and sound financial management:</p> <p>A. High level of protection of the EU and Albanian financial interest should be promoted through introducing respective avoiding CoI provisions in the specifications of the respective IPARD call for grant applications and in the terms and conditions of the grant contracts: applicants to refrain from any activity giving rise to CoI of their IPARD related obligations (e.g. the applicant/recipient (and its shareholders/ legal representatives) to refrain from and report conflict of interest with regards the bidders, from which offers were collected.</p> <p>B. The bidders or the applicants can trigger the responsible IPARD Agency staff private interest that can result in CoI:</p> <ul style="list-style-type: none">- CoI of IPARD Agency staff with regards the private measures applicants: e.g. an applicant under IPARD Measure 1 is a company which owner is the spouse of the Head/responsible staff of the IPARD Agency Project Selection Department; the applicant is physical person who one year ago was ex-head of the IPARD On-the-spot Control Department of the IPARD Agency.- CoI of IPARD Agency staff with regards the bidders (supplier's companies that issued one of the offers): refer to examples in the answer to question 8 above. <p><u>Public IPARD measures</u></p> <p>The CoI legal definitions and requirements are applicable for the staff of the IPARD public measures recipients: IPARD MA, the municipalities, etc., which as IPARD</p>



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		<p>recipients carry out public procurement procedures under PRAG and act as contracting authority. While the entire current Guidance document is applicable for them, here are provided a few additional non-exhaustive examples:</p> <ul style="list-style-type: none">- CoI of IPARD Agency staff with regards the public measures' applicants: e.g. the head/responsible staff of the On-the-spot Control Department of the IPARD Agency is a spouse of the mayor of the municipality applying for IPARD grant under the IPARD municipal infrastructure measure.- CoI of the IPARD applicant municipality's staff with regards the public procurement tenderer: A member of the Municipal Tender Evolution Committee is a sister of the owner of one of the tenderers - construction companies applying for building of municipal road tender. <p>Additional examples and guidance in <i>Annex 3 Examples of conflicts of interest</i>. and in Section 2.5.4. Conflict of Interest of PRAG 2025.</p>
11.	Where can I find get assistance with regards the understanding of the CoI?	<p>CoI assistance can be provided from:</p> <ul style="list-style-type: none">- your superior or- irregularity officer or- head of the IPA body.

Annex 9- Cross-Restrictions for Appointments to 'Head of Structure' Positions due to Conflict of Interest in IPA/IPARD Structures

This outlines an individual who has previously worked in, benefited from, or been closely linked to one IPA/IPARD structure cannot be appointed to a managerial role in another structure, due to potential conflict of interest. It is agreed that the period of prohibition is 2 years to prevent undue influence in decision-making and to ensure the independence of public institutions.

Previous Position	Position Not Allowed	Reason for Restriction
Head of IBPM	Head of MA	Contributed to sectoral decisions benefiting from MA structures.



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Head of MA	Head of NAOSO/AB/IBFM	Involved in selection or monitoring of IPA/IPARD beneficiaries.
Head of NAOSO/AB	Head of AA	Supervised the structure and may influence it.
Head of ARDA	Head of MA/NAOSO/AB	Implemented IPARD projects under MA/Management structure supervision.
Head of MA	Head of AA /NAOSO/AB	Influenced documents subject to future audit.
Head of CFCU/IBFM	Head of NAOSO/MA/AB/AA	Previously involved in financial management of systems now monitored by NAOSO.

*Is the same rules is used for each employ appointed as head/director of each structure not mentioned before.

Annex 10 – Reporting of Conflict of Interest

1. How is Conflict of Interest Reported?

- Self-declaration at the beginning of employment and periodically, using official forms.
- Individual reporting through email, form, or verbal communication (recorded).
- Anonymous reporting using secure internal tools or whistleblowing systems.

2. Where is Conflict of Interest Reported?

Their direct supervisor or line manager, if that person is not involved in the conflict,
The Hr Officer/ irregularity officer or designated integrity officer within the institution.

If the supervisor is involved in the conflict:

The report must be escalated to a higher level, such as:

The Director of the structure should report to MA/NAO

Or directly to NAOSO if the case concerns a structure reporting to the NAO.

Example: If a staff member in the CFCU realizes that a company they have personal connections with has applied in a procurement procedure:

They must immediately report it to their Head of Sector or the Irregularity Officer in case of financial impact.

If the head is involved in the conflict, the staff member should report directly to the CFCU Director and NAO

How to report:

By using an official Conflict of Interest Declaration Form,

By email to the designated integrity contact

What happens next:

The report is officially registered,

The case is evaluated and managed, and appropriate measures are taken (e.g., removal from decision-making, reassignment),

In serious cases, the situation may be escalated to NAO AFCOS, or OLAF for further investigation



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Annex 11 – Yearly Training Plan on Conflict-of-Interest Management:

Training Topic	Target Audience	Frequency	Delivery Method	Responsible Unit / Person
1. Introduction to CoI Concepts - Definitions - Types of CoI (actual, perceived, potential) - Who is affected	All staff (new & existing)	Annually (Mandatory onboarding for new staff)	In-person or online (interactive session)	HR Department + CoI Officer
2. CoI in Practice - Real IPA/IPARD case examples - Red flags - Declaration procedures	Technical staff, evaluation committee members, procurement staff	Annually (pre-tender season + refresher)	Case-based workshop	Line Manager + IPA Training Coordinator
3. How to Handle and Escalate CoI - Reporting flow - Responsibilities of superiors	Supervisors, Heads of Units, Evaluation Committee Chairs	Annually	Workshop / Simulation	CoI Officer + Legal Advisor
4. Institutional Obligations & Sanctions - What happens if CoI is not managed? - Legal implications, audit flags	Senior management, compliance officers, legal unit	Annually	Roundtable or high-level briefing	Internal Audit + NAO Support Office
5. Thematic/Ad-hoc Training - e.g. Post-employment restrictions, political neutrality during elections, CoI in grants to municipalities	Targeted based on risks, events, or findings	As needed	E-learning module or briefings	CoI Officer / Ethics Focal Point
6. Awareness Day or “Integrity Week” Activities	All staff	Once a year	Mixed format	HR + Communications Team + Ethics Committee



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