**Complaint[[1]](#footnote-1) procedure**

of Interreg V-A Romania-Bulgaria

**Article 1 (Scope of the complaint procedure)**

1. These rules define the procedure for a complaint against decisions taken by Monitoring Committee regarding the assessment process and selection of an operation. The purpose of the procedure is to ensure effective examination of complaints.
2. All other type of complaints will be treated according to the provisions of the subsidy contract or other applicable national rules.

**Article 2 (Right to complain)**

1. Only the project’s Lead Beneficiary as the one representing the project partnership affected by the funding decision is entitled to file a complaint.
2. It is therefore the task of the Lead Beneficiary to collect and bring forward the complaint reasons from all project partners.

**Article 3 (Complaint against funding decisions)**

1. The right to complain against a Monitoring Committee decision regarding the project selection applies to the Lead Beneficiary affected by the funding decision.
2. The complaint is to be lodged against the communication issued by the Joint Secretariat based on the decision by the Monitoring Committee.
3. The complaint can be lodged only against the following criteria:
4. the outcomes of the technical and/or quality assessment of the project application, based on the selection criteria approved by the Monitoring Committee, do not correspond to the information provided by the Lead Beneficiary during the project assessment and selection process; and/or
5. the project assessment and selection process failed to comply with specific procedures laid down in the Call documents[[2]](#footnote-2) that materially affected or could have materially affected the decision.

**Article 4 (Lodging the complaint and formal requirements)**

1. The complaint should be lodged in writing by fax/e-mail to the Joint Secretariat within maximum 5 working days after the Lead Beneficiary had been officially notified about the results of the project selection process.
2. The complaint should include:
3. name and address of the Lead Beneficiary;
4. reference number of the application which is subject of the complaint;
5. clearly indicated reasons for the complaint, including listing of all elements of the assessment which are being complaint and/or failures in adherence with procedures limited to those criteria mentioned in Art. 3(3);
6. signature of the legal representative of the Lead Beneficiary;
7. any relevant supporting documents;
8. The relevant documentation shall be provided for the sole purpose of supporting the complaint and may not alter the quality or content of the assessed application.
9. No other grounds for the complaint than indicated in this Article 4(2c) will be taken into account during the complaint procedure.

**Article 5 (Rejection without examination)**

1. A complaint will be rejected without further examination if submitted after the deadline set in Article 4(1) or if the formal requirements set in Article 4(2) are not observed.
2. In case the complaint is rejected under provisions set in this Article 5(1), the Joint Secretariat conveys this information within 3 working days to the Lead Beneficiary and informs the Monitoring Committee.

**Article 6 (Handling of the complaint by the Joint Secretariat)**

1. The Joint Secretariat (other persons than those initially involved in the evaluation process) examines the complaint and prepares its technical examination regarding the merit of the complaint.
2. The complaint will then be examined on the basis of the information brought forward by the Lead Beneficiary in the complaint and the technical examination according to this Article 6(2) by the Complaint Panel to be convened for this purpose.

**Article 7 (Complaint Panel)**

1. The Complaint Panel is the only body entitled to review a complaint against a decision regarding assessment and selection of projects co-financed by the Programme.
2. The Complaint Panel comprises of 3 members of which one is a representative of the Managing Authority, one is a representative of the National Authority and one[[3]](#footnote-3) is neither member of the Monitoring Committee nor the Managing Authority, National Authority or Joint Secretariat and is appointed according to below Art. 7(4).
3. The members of the Complaint Panel are appointed by the Monitoring Committee.
4. The external member of the Complaint Panel will be appointed by the Monitoring Committee based on proposals by the Managing Authority and National Authority. The proposals have to be provided at the stage of appointing the Complaint Panel according to this Art. 7(3).
5. Impartiality of members of the Complaint Panel towards the case under review has to be ensured. If this cannot be provided, the distinct member shall refrain from the distinct case’s review and be replaced by another impartial member according to this Art. 7(3).
6. The Joint Secretariat acts as the secretariat for the Complaint Panel and provides any assistance necessary for the review of the complaint.

**Article 8 (Examination of complaint by Complaint Panel)**

For complaints not rejected under provisions set in Article 5(1), the Joint Secretariat shall provide the Members of the Complaint Panel no later than 5 working calendar days after the receipt of the complaint with a copy of:

1. the complaint with the technical examination by the Joint Secretariat as defined in Article 6(1);
2. the application form and all supporting documents that were taken into consideration by the relevant bodies during the project assessment and selection process;
3. all documents relating to the assessment of the application in question including checklists and the record of the Monitoring Committee’s decision;
4. any other document requested by the Members of the Complaint Panel relevant to the complaint.

**Article 9 (Different steps and duration of complaint examination)**

1. A meeting of the Complaint Panel is assembled / a written procedure is launched, as the case may be, no sooner than 2 working days after the documents defined in Article 8 are provided and no later than 15 working days after the complaint was lodged.
2. The Joint Secretariat is invited to present the position of the technical examination according to Article 6(1) and to answer possible questions.
3. The decision if the complaint is justified or to be rejected is taken by the Complaint Panel by qualified majority. In case it is justified, the case will be sent back to the Monitoring Committee to review the project application and its assessment. The Complaint Panel has to provide the Monitoring Committee with a written justification with explicit reference to the criteria established in Art. 3 (3).
4. The decision of the Complaint Panel is communicated by the Joint Secretariat in writing to the Lead Beneficiary and the Monitoring Committee within 1 working day from the Complaint Panel’s decision.
5. The complaint procedure – from the receipt of the complaint according to Art. 4(1) to the communication of the Complaint Panel’s decision to the Lead Beneficiary according to this Art. 9(4) – should be resolved within maximum 30 calendar days.

**Article 10 (Final Decision)**

1. The decision of the Complaint Panel is final, binding to all parties and not subject of any further complaint proceedings within the Programme based on the same grounds.
2. The complaint procedure and related decisions will be published on the official website of the programme - [www.interregrobg.eu](http://www.interregrobg.eu).

1. The term „complaint“ to be understood – different from the term „appeal“ – as a procedure within the Programme, not to replace, but in the best case to avoid a later appeal (national court procedure). [↑](#footnote-ref-1)
2. Or any other Programme official document [↑](#footnote-ref-2)
3. This could be an external expert or a person from another ETC programme, or from other national responsible authority – most important that this person brings external, neutral expertise into the complaint panel, at the same time having the necessary understanding of the ETC context in which the complaint is to be handled. [↑](#footnote-ref-3)