



MINISTRY OF REGIONAL DEVELOPMENT  
AND URBAN ADMINISTRATION



MINISTRY OF REGIONAL  
DEVELOPMENT AND  
PUBLIC WORKS



DECISION no. 23  
of 11th of May 2018

Regarding the complaints lodged against the Monitoring Committee Decision no. 72 of 22<sup>nd</sup> of March 2018, approving the List of approved and rejected projects submitted under the third call for proposals for the Interreg V-A Romania-Bulgaria Programme - deadline 23<sup>rd</sup> of October 2017

Having regard to the following:

- Monitoring Committee Decision no. 51 of 2<sup>nd</sup> of August 2017 approving the Complaint Panel for the Eols and full applications submitted under the 3<sup>rd</sup> call for proposals, priority axes 1-3, Interreg V-A Romania-Bulgaria Programme, step 1 and 2,
- The Complaint Procedure of Interreg V-A Romania-Bulgaria,

the Complaint Panel of Interreg V-A Romania-Bulgaria Programme has adopted this:

### DECISION

Article 1. The present document rejects the complaint lodged by the Municipality Alexandria, lead beneficiary of the project "Active art for attractive tourism" - code 306, selected without financial allocation, and registered by CBC ROC with the number 7048/12.04.2018, appealing the score received at technical and financial evaluation and the budgetary reductions.

Article 2. The complainant appealed the following:

i. "Regarding budgetary reductions grounded on the recommendations of the Romanian external expert", namely a reduction operated on the budget in total amount of 290,676.03 euro, namely 271,320.00 euro reduction from the chapter "Infrastructure and Works" and 19,356.03 euro- corresponding flat rate operated in relation to the maximum 10% contingency costs from the general estimate according to provisions of GD 907/2016, from 16.59% to 10%.

The complainant argument is that "within Section 5 of GD 907/2016- Other expenses, point 5.3, it is clearly stated that contingency costs are to be estimated as a percentage, out of the value of expenses included under chapters/ subchapters 2, 1.3, 1.4, 2, 3.5, 3.8, 4 of the general estimate, as follows:

- a) 10%, in case of a new investment;
- b) 20%, in case of intervention over an existing construction".

Thus, the complainant requested for elimination of this compulsory recommendation as part of the complaint, based on the fact that it is not in line with Romanian legislation.

In view of those stated by the complainant, based on the opinion of the technical expert it was clarified that the envisaged works as they are described failed to demonstrate their complexity and moreover, GD no.1394/2010 with subsequent changes and GD no. 363/ 2010 with subsequent changes, is limiting the contingency costs for all the works related to roads, to maximum 10%. Moreover, the cost standards within GD no. 1394/2010 were actually used by LB in substantiation the investment costs. The works contingency is not excluded from the same reference as the envisaged works.

Thus, the amount exceeding 10% from the works general estimate may be treated as unjustified for a public funded project and from the point of view of the sound financial management principle and efficient spending of the public funds. Although having a legal framework from the point of view of GD 907/2016, methodologically this amount is justified to be reduced at this stage, considering that anyway cannot be included in their offers by the bidders.

In this line, there are to be mentioned the provisions of art. 1 (1) a form Annex E- List of eligible expenditures to the Applicant's Guide for the 3<sup>rd</sup> call for proposals: *"Expenditure under Interreg V-A Romania-Bulgaria Programme is considered eligible if: is necessary for initiating and carrying out the project and complies with the principles of sound financial management, in particular value for money and cost-effectiveness."* Or, the case of the contingency exceeding 10% from the works estimate is in breach of all the principles stated above, for all above described argumentation. Thus, the complainant's request is rejected and assessors' decision maintained.

**ii. Regarding the final score received by the project:**

**a. Criterion Q4 - 10 points in self-assessment (maximum) vs. 8 in evaluation.**

The contribution to the outputs is not contested and all complainant argumentation is not considered because it is in agreement with assessors' considerations.

As for the granted score, considering some clarifications on technical issues related to some roads qualitative aspects, as well as the budgetary reduction, the contribution was correctly noted by the assessors as very good (8 points) vs. excellent (10 points).

**b. Criterion Q5- 2 points in self-assessment (maximum) vs. 0 in evaluation**

The complaint argues direct connection to TEN-T due to the fact that both beneficiaries are tertiary nodes. However, the project is actually proposing rehabilitation of roads within tertiary nodes in case of the Lead Beneficiary, thus at most the Programme can consider an indirect contribution to TEN-T.

**c. Criterion Q7- 2 points in self-assessment (maximum) vs. 1 in evaluation**

The project modernizes roads localized on one hand between 2 villages, and on the other hand roads in a town, along with the soft measures of PA1. The 1 point granted is maintained due to *non-reformation in peius* principle, but the project does not show that a wider joint problem is tackled by the project with a joint solution which brings benefits to the border area.

**d. Criterion Q9- 1 point in self-assessment (maximum) vs. 0 in evaluation**

Reviewing the complainant argumentation, who considered correctly to be granted 1 point, it confirms precisely the score granted by assessors, 0 points, as the complainant emphasizes on the equality between men and women, without any reference to a specific measure (for example, in the sense of positive discrimination), as requested for 1 point. The score is maintained.

**e. Criterion Q15 - 13 points in self-assessment vs. 10 in evaluation**

The score is maintained due to the reserves expressed by the technical expert and the contradictions between certain paragraphs from the Application Form and the existing road transport maps:

- *"Municipality of Alexandria is tertiary nodes but not well connected to TEN-T transport network"* (WP I1 section Justification) - Alexandria is situated exactly on the European road E70, part of core TEN-T, so it cannot be considered a "not well connected" area;
- *"By implementing this activity, it is realizing the region interconnection of Municipality of Cherven Bryag with Municipality of Alexandria."* (WP I2, section Partner involvement) - This text is referring to the effects of the modernized road in proximity of Cherven Bryag (8 km), but between Cherven Bryag and Alexandria there are over 160 km with a multitude of available crossroads, which can be considered a well-connected area.

Considering the assessors' evaluation and external expert statements and lack of coherent argumentation of the project activities, the score granted by the assessors (10 points) is maintained.

**f. Criterion Q16 - 5 points in self-assessment vs. 3 in evaluation**

Wrongly framing Project preparation activities in the Implementation package is an issue which falls under the object of Criterion Q16. The score is maintained.

**g. Criterion Q19 - 10 points (maximum) in self-assessment vs. 7 in evaluation**

Technical issues noticed by the technical expert were materialized in clarification requested by assessors.

The complainant is invoking that "clarification requests did not address aspects of the indicator itself, but clarification of some technical aspects of the proposed solutions. So there was no doubt about the possibility of achieving the project results as they are defined in the guide and the application form, but only on the technical aspects related to the technical solution."

With reference to the above statement, criterion Q19 is not containing the word "indicator" in the scoring guidelines. The technical aspects of the proposed solution are referring to the LB proposed roads to be modernized, which is its main result. For this project, those are one of the same, by the nature of the proposed investment. It is in the technical expert duty to contest and express doubts for the result which are some roads, and it is in assessors duty to penalize this criterion if the "descriptions are not enough detailed and coherent" (guidelines for 7-9 points). Therefore, the granted score of 7 points is maintained.

**h. Criterion Q20 - 3 points (maximum) in self-assessment vs. 2 in evaluation**

Considering the fact that Zimnicea and Turnu-Magurele population was not foreseen as target-group, the score is considered justified and maintained.

**i. Criterion Q21 - 3 points (maximum) in self-assessment vs. 2 in evaluation**

Considering the very general description of the scenarios "with/ without project" from the Cost Benefit Analysis, it was not clearly identified for whom the RO roads are modernized, therefore the score is maintained.

**j. Criterion Q22 - 2 points (maximum) in self-assessment vs. 1 in evaluation**

After reviewing section Exit/continuation strategy, it can be noticed that not all envisaged soft measures will be continued after cease of financing. Only reference to the black spot maps is made, which will be "available" (but not updated). Or, the applicant undertook 5 mechanisms. Thus the assessors' granted score of 1 point is justified.

**k. Criterion Q23 12 points (maximum) in self-assessment vs. 8 in evaluation**

A significant budgetary reduction (related to contingency, already addressed at point i.) and the discrepancies identified on the budget are justifying the 8 points granted, therefore the score is maintained.

Article 3. The decision of the Complaint Panel is final, binding to all parties and not subject of any further complaint proceedings within the Programme.

Signed by

Members of the Complaint Panel

Signature



Member 1 - Managing Authority representative, Ministry of Regional Development and Public Administration, Romania

Signature

Member 2 - National Authority representative, Ministry of Regional Administration and Public Works, Bulgaria



Signature

Member 3 - External expert (from the Evaluation Unit), Ministry of Regional Development and Public Administration, Romania

