

Practice Name:

**PREVENT system**

Practice category:

- Systems and Tools



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Country:

**Romania**

### Fraud risk(s) countered

- Conflict of interest
- Avoidance or manipulation of public procurement procedures

### Context and objective(s)

When Romania joined the EU on 1 January 2007, it still had progress to make, alongside Bulgaria, in the fields of judicial reform and corruption. The EC set up the Cooperation and Verification Mechanism (CVM) as a transitional measure to assist the two countries. The Romanian **National Integrity Agency (ANI) and the PREVENT system** were set up under this specific monitoring process in order to address the problem of bias in decisions on public procurement contracts.

The main objective of PREVENT, managed by ANI and operational since 2017, is to **inhibit potential conflicts of interest** in public procurement contracts. PREVENT acts as an ex-ante verification mechanism, by investigating potential conflicts of interest within the electronic public procurement system (SEAP) and by removing those without affecting any ongoing procedures. By acting before a contract is signed, PREVENT can highlight any potential conflicts without putting the contracts, and thus public finances, at risk. The focus is on a preventive, ex-ante approach as opposed to sanctions and ex-officio investigations.

### Description of the practice

Following the publication of the participation notice in SEAP, an Evaluation Commission is established within the Contracting Authority (CA). As per Romanian Law no. 184/2016 and Law no.99/2016, CAs are obliged to fill in an electronic **Integrity Form** on the SEAP platform. There are 39 different categories of public officials who are required to fill in an **Integrity Form**. When tenders submit a bid for the contract, they too must fill in an **Integrity Form**. The **Integrity Form** must be updated throughout the bidding procedure.

The following information is contained within the **Integrity Form**:

- **Information on the procurement procedure:** source for procurement funding; estimated value; CA identification data; type of contract etc.;
- **Information about the decision-maker:** personal identification data; position within the authority; membership or decision-making position within NGO's or associations;
- **Information regarding the consultants:** position; personal identification data; tax registration no.;
- **Information about the evaluation commission:** personal identification number of members; position/capacity; if they worked in the past for the participating bidders;

- **Data on the bidders/candidates:** position/capacity; tax registration number; offices address.

ANI ensures the procedures for collecting, processing, assessing and publishing the required disclosure of assets and interests on the Public Web Portal, one of the ANI's most important tools.

PREVENT **cross-references the information** provided in the *Integrity Forms* against the following three databases:

- SEAP (Public Procurement Electronic Service);
- DEPABD (Directorate for Personnel Records and Database Administration); and
- ONRC (National Trade Registry Office).

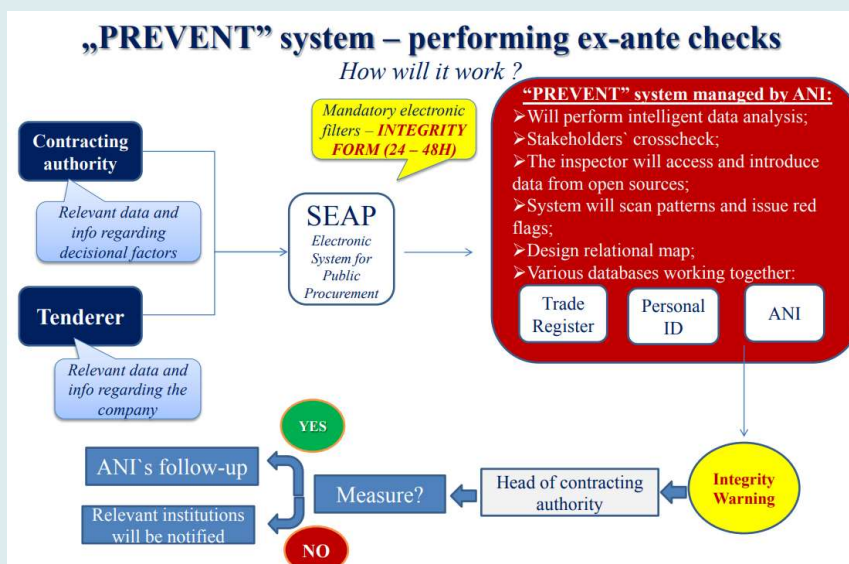
PREVENT generates a notification if a conflict of interest arises, which is then analysed by the ANI inspectors. If deemed necessary, they electronically transmit an *Integrity Warning*, via the PREVENT System, to the person who is subject to the potential conflict of interest in addition to the CA top level managers.

Following an integrity warning, the CA has the duty to investigate and take one of the following measures:

- replacement of the member on the assessment committee who is in a potential conflict of interest;
- or debarment of the bidder, candidate, associate bidder, subcontractor or third-party supporting entity who is in conflict of interest.

Finally, the ANI verifies that all necessary steps have been taken to eliminate the conflict of interest circumstance. Failure to act following an integrity warning or to fill in an *Integrity Form* triggers ex officio investigation into the conflict of interest by ANI. The representatives that cause the persisting conflict of interest may be prevented from participating in a public role for up to 3 years. Every 6 months ANI issues a report on the number of integrity warnings.

The PREVENT system began identifying conflict of interest cases in public procurement departments using EU funds but was subsequently expanded throughout the Romanian public national budget.



Source: [https://www.academiadepolitie.ro/root/proiecte\\_eu/2018/sesiunea2/PREVENT-ANAMARIA\\_ANGHELESCU-ANI.pdf](https://www.academiadepolitie.ro/root/proiecte_eu/2018/sesiunea2/PREVENT-ANAMARIA_ANGHELESCU-ANI.pdf)

## Unique features

PREVENT uses a combination of databases to crosscheck the information provided in the *Integrity Forms*. The PREVENT system compares the *Integrity Forms* with the available data from three sources of databases (mentioned above) and issues a red flag if something suspicious is recorded.

CAs that deal with contracts above the minimum public procurement thresholds are mandated to fill in an *Integrity Form* by law, meaning that PREVENT has substantial information to crosscheck the datasets. As of 15 June 2020, over 7 775 197 declarations from civil servants have been made via the PREVENT portal allowing for a thorough and effective cross-referencing system.

## Outcomes and results

According to the European Commission CVM Report of 2019, the PREVENT system remains fully operational and ANI reports positive results. More broadly, ANI has maintained a steady record for investigations of incompatibilities and administrative conflicts of interest.

Since the creation of PREVENT three years ago, over 50 000 procurement procedures and 260 000 contracts have been screened through the system. Warnings were issued for 123 potential conflicts of interest and in 96% of cases the CA took steps to remove the potential conflict in contracts that were worth approximately €300 million. The remaining 4% of cases were subject to an ex-officio investigation.

The number of cases of non-disclosed conflicts of interest dropped by 52% due to the efficiency of the PREVENT system over a two-and-a-half-year period.

In 2016, there were 466 ex-officio investigations into conflicts of interest. By 2019 this number had been reduced to 215, which is indicative of the work of the ANI investigators and the PREVENT system.

## Key success factors

- PREVENT was designed to be a **simple, user-friendly, accessible platform**, built around a clear definition of conflict of interest. This makes it easier for the CA to complete the *Integrity Forms* leading to better results throughout the whole system.
- The legislation that supports PREVENT is also a key aspect of its success. These laws oblige public contractors to complete the *Integrity Form* for procedures on SEAP.
- The CAs are also required to follow a **code of conduct** with an internal checklist. This is important as it creates internal awareness of what is acceptable and what is not. A code of conduct helps clear the ambiguity around grey areas, such as gifts, where there is a fine line between generosity and malicious intent.

## Challenges encountered & lessons learned

- A limiting feature is that the system was built to prevent familial conflicts of interest. Other potential conflicts including friends and ex-colleagues are thus not identified by the system. PREVENT also does not verify public procurement below certain thresholds.
- Although not mandatory, in practice PREVENT is also being used as a good practice for contracts valued below the minimum threshold. The lowest amount to be scrutinised by PREVENT was €10.

## **Potential for the transferability**

Any country which wishes to follow the PREVENT system needs to set up a functioning asset and interest disclosure system as a first step. Once this is in place, a system such as PREVENT will need human resources and interconnected databases to be implemented (ANI is staffed with 50 investigators to investigate any integrity warnings).