



MINISTRY OF REGIONAL DEVELOPMENT,
PUBLIC ADMINISTRATION AND
EUROPEAN FUNDS

ROMANIA - BULGARIA



Interreg 

MINISTRY OF REGIONAL
DEVELOPMENT AND
PUBLIC WORKS



DECISION no. 34
of 14th of November 2017

Regarding the complaints lodged against the *Monitoring Committee Decision no. 54 of 12th of October 2017, approving the List of the 4 rejected expressions of interest submitted under the third call for proposals for the Interreg V-A Romania-Bulgaria Programme - Deadline - 15th of May 2017*

Having regard to the following:

- Monitoring Committee Decision no. 51 of 2nd of August 2017 approving the Complaint Panel for the Eols and full applications submitted under the 3rd 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 approves the complaint lodged by Administration of Natural Park "Vrachanski Balkan", lead beneficiary of the application no. ROBG-388 - *"Establishment of cross-border partnerships for coordinated management of forest fires in the Romanian and Bulgarian nature parks"* and registered by CBC ROC with the number 17766/26.10.2017, appealing the Decision of the Monitoring Committee No. 54/12.10.2017 *Approving the List of the 4 rejected expressions of interest submitted under the third call for proposals for the Interreg V-A Romania-Bulgaria Programme - Deadline - 15th of May 2017*, following a re-evaluation and a re-assessment as decided by the Complaint Panel within the Decision No. 26/28.08.2017.

Article 2. The reasons for approving the complaint are:

The legal documents of Beneficiary 2, submitted as part of the Expression of Interest and part of the Response to clarifications from the LB no. 96/13.09.2017 registered at CBC RO Calarasi with no. 14850/13.09.2017, include:

- *Court closing for registration in the Trade Registry no. J25/194/05.06.2009;*

- *Certificate for registration in the Trade Registry issued on 05.06.2009;*
- *Excerpt from Government Decision no. 229/2009 for the reorganization of the National Forestry Administration - Romsilva and the approval of the organization and functioning regulations;*
- *Contract (N.F.A.- Romsilva no. 144 /19.11.2014, N.F.A. Romsilva - Iron Gates Natural Park R.A. no. 18774/19.11.2014) for administration of the Natural Park Iron Gates;*
- *Letter no. 3758/09.08.2017 by the National Forestry Company - Romsilva;*
- *Annual balance statement of N.F.A. Romsilva - Iron Gates Natural Park R.A. for year 2016.*

Within the appeal submitted by the Lead Beneficiary, it is clarified that apart from the documents already submitted (mentioned above), there are no other legal documents related to Beneficiary 2 which might demonstrate the legal status of N.F.A. Romsilva - Iron Gates Natural Park R.A., as it is mentioned under points I.1, I.2, I.3 and I.4 from the appeal letter. The Lead Beneficiary mentions that "The role of a statute of N.F.A. Romsilva - Iron Gates Natural Park is played by the Contract between N.F.A. Romsilva and the Administration of Iron Gates Natural Park". This contract was signed following a public procedure, organized on the procedure defined by Order 1052/2014 of the Ministry of Environment and Climatic Changes which was open for other operators that would have observed the requested conditions.

The Lead Beneficiary also mentioned that the "Decision of Court of Mehedinti no. 26468/02.06.2009 performs the function of article of incorporation (aktul constitutiv) of the organization".

Moreover, according to art. 19 of Government Emergency Ordinance no. 57/2007, amended and completed, the administration structures especially constituted to manage protected natural areas, such as N.F.A. Romsilva - Iron Gates Natural Park R.A., have legal personality and are established in order to ensure the administration of protected natural areas.

Considering the eligibility criterion E4 "All partners involved in the current partnership (including the Lead Partner) fulfill the eligibility criteria for type of institutions set out in the Applicant Guide", respectively they are Romanian/Bulgarian non-profit making bodies/organizations (that were not established with the goal to obtain profit) and analyzing the role of Beneficiary 2, it stands that the Iron Gates Natural Park R.A. was established with the goal to manage the protected natural area of Iron Gates Natural Park (set up by Romanian Law 5/2000).

Also, an analysis of the Contract (N.F.A.- Romsilva no. 144 /19.11.2014, N.F.A. Romsilva - Iron Gates Natural Park R.A. no. 18774/19.11.2014) for administration of the Natural Park Iron Gates reveals that the revenues of the Administration are to be used in order to cover the expenditure incurred for the management/administration of the protected natural area.

Moreover, **Article 4 Obligations and rights of the contracting parties:**

4.1 R.N.P Romsilva - Administration of Iron Gates Natural Park R.A. has the following obligations:

(...)

ii) to monthly prepare the invoice only for the administration services that are not covered from the own revenues realized during the respective month and to submit it to RNP-Romsilva, on the 10th of the following month;

jj) Take steps and initiate actions to attract and collect additional funds to implement the management actions of the protected natural area;

(...)

4.2 The National Forestry Board - Romsilva has the following obligations:

(...)

b) to pay the value of the assigned protected natural area management services provided by the Park administration, as set out in Annex 1 to this contract. Payment of the administration services will be done monthly, based on the bills issued by the park management;

(...)

4.3 R.N.P Romsilva - Administration of Iron Gates Natural Park R.A. has the following rights:

(...)

p) to propose and collect tariffs for the completion of the financial resources necessary for the proper administration of the protected natural area, according to the specific legislation in force and the procedures established by RNP-Romsilva;

(...)

4.4 The National Forestry Company - Romsilva has the following rights:

(...)

i) to analyze and approve additional expenses over the budget set out in Annex 1 of this Management Contract, based on the supporting documents;

k) to establish the procedure for establishing the tariffs applied by its legal entity, in order to complete the financial resources necessary for the proper administration of the protected natural area, according to the specific legislation in force;

(...)

Additional, the annual balance statement for year 2016 as provided by the Applicant in the clarification response sent to AWG with letter No. 94/13.09.2017 indicates that no profit has been registered in 2016.

Considering slight differences between Romanian and English versions of the above mentioned contract, when analyzing the Applicant complaint, the Romanian version of the contract prevailed.

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, Public Administration and European Funds, 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, Public Administration and European Funds, Romania

