

UNIVERSITY "BABEȘ-BOLYAI" CLUJ-NAPOCA

FACULTY OF EUROPEAN STUDIES

Doctoral School "International Relations and European Studies"

THE ISSUE OF FRAUD WITH EUROPEAN FUNDS  
IN ROMANIA AND HUNGARY.

MECHANISMS, REGULATIONS, INSTITUTIONAL  
FRAMEWORK AND IMPROVEMENT SOLUTIONS  
AT EUROPEAN AND NATIONAL LEVEL

*-summary-*

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Cluj-Napoca

2023

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**Keywords: fraud, irregularities, error, EU funds, fight against fraud, European Anti-Fraud Office, European Public Prosecutor's Office, Romania, Hungary, legislation**

## **Introduction**

The problem of fraud of non-reimbursable European funds at EU level is complex and constantly evolving. The complexity is represented by the supranational and national dimensions through which the subject is dealt with. The Community and national levels are in constant contact with each other in terms of the concepts used, legislation, control institutions, prevention mechanisms and fraud methods. These variables are supplemented by a particular layer of information for each Member State. In addition to the complex nature, the evolutionary nature of the field of fraud involving non-reimbursable funds is also noteworthy. Protecting the EU's financial interests in an effective way requires continuous adaptation and effort to be one step ahead of the criminals is a necessity.

The complexity and continuous evolution of the field can make it difficult for beneficiaries to cope with bureaucratic inflation. Beneficiaries often find themselves unable to accumulate all the information they need to manage their projects quickly enough. In this sense, the balance between over-regulation and the optimal level of protection of financial interests (PIF) is often out of balance.

Romania and Hungary have received substantial support from the European Union since before accession. Both countries are net beneficiaries, with Romania having a positive balance of €56 billion by May 2023<sup>1</sup>, while Hungary was in surplus by €58 billion at the end of 2021<sup>2</sup>. This funding can be seen in investments in infrastructure, business and human capital development, digitisation, agriculture and many other aspects targeting citizens and legal entities in the two countries.

The dimension of fraud with non-reimbursable European funds is more abstract, as there is a discovered and a real dimension. Of the more than €100 billion received by the two countries, it may seem small that the European Anti-Fraud Office (OLAF) recommended in 2022 the recovery of just over €400 million at EU level<sup>3</sup>. For its part, the European Public Prosecutor's

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<sup>1</sup> Ministry of European Investment and Projects, *Europe Day, a moment of stocktaking: what European funds have brought concretely to Romania in recent years*, <https://mfe.gov.ro/ziua-europei-moment-de-bilant-ce-au-adus-concret-fondurile-europene-pentru-romania-in-ultimii-ani/>, accessed on 1 August 2023.

<sup>2</sup> Európai Bizottság Magyarországi Képviselete, *Az EU költségvetése Magyarországon*, [https://hungary.representation.ec.europa.eu/strategia-es-prioritasok/az-eu-koltsegvetese-magyarorszagon\\_hu](https://hungary.representation.ec.europa.eu/strategia-es-prioritasok/az-eu-koltsegvetese-magyarorszagon_hu), accessed 1 August 2023.

<sup>3</sup> European Commission, European Anti-Fraud Office, *The OLAF report 2022*, Publications Office, LU, 2023, [https://ec.europa.eu/olaf-report/2022/impact-of-investigations/impacts/financial\\_en.html](https://ec.europa.eu/olaf-report/2022/impact-of-investigations/impacts/financial_en.html), accessed 10 April 2023.

Office investigated 1,117 cases in 2022, with an estimated value of damages of €14.1 billion<sup>4</sup> . Half of this amount relates to VAT fraud, while of the other half only a part concerned cases of fraud with EU funds under investigation.

In order for the level of PIF to be optimal and, at the same time, for bona fide beneficiaries to be able to access funding in a simple and secure way in both Romania and Hungary, certain clarifications are needed. This paper aims to help clarify these issues. First of all, it is necessary to understand the concept of fraud and to distinguish it from the concepts of irregularity and error. Secondly, the legislative framework of anti-fraud policy at EU, Romanian and Hungarian level requires comparative analysis. Thirdly, the field cannot be approached without knowledge of the main control institutions. Fourthly, knowledge of fraud methods and the main methods of fraud prevention, detection, control and response is required. Last but not least, the issue of fraud with European funds cannot be tackled only at the level of theoretical analysis of the concept, legislation, institutions, mechanisms and methods, but must be complemented by an applied, practical analysis, involving the parties in the field and identifying possible solutions for improvement.

**The aim of** this paper is to clarify the issue of fraud with European funds in Romania and Hungary for the period 2018-2022.

**The research objectives** are:

1. Definition and conceptual delimitation of fraud with European funds
2. Theoretical comparative analysis of the legislative and institutional framework and mechanisms of fraud with European funds at EU, Romanian and Hungarian level
3. Development of tools to support beneficiaries of European funds in order to facilitate project management and avoid fraudulent situations
4. Designing a set of recommendations at the different levels of the analysis in order to fight even more effectively the phenomenon of fraud with non-reimbursable European funds

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<sup>4</sup> European Public Prosecutor's Office, *Annual report 2022, 2023*, <https://data.europa.eu/doi/10.2927/816527>, accessed 11 March 2023.

## **Assumptions**

1. The concept of fraud with European funds does not have a universally accepted meaning, understanding and interpretation in Romania, Hungary and the European Union, and there are differences in the perceived meaning and use of the concept by different individuals, social groups or even institutions.
2. The institutional control framework, anti-fraud policy, fraud methods and prevention, detection and control mechanisms differ between 2018-2022 at EU, Romanian and Hungarian level. Further steps need to be taken to harmonise and combat the phenomenon.
3. Preponderantly, applicants and recipients of EU funds are not criminals who intend on causing significant damage to the financial interests of the European Union or national budgets. Instead, as the legislative and institutional framework at EU, Romanian and Hungarian level is complex, they sometimes unintentionally end up making mistakes and (causing) more problems than they solve with funding. As a consequence, they need instruments to support them.

## **Research questions**

### **In correlation with objective 1 and 4 / hypothesis 1:**

1. How is the concept of fraud with EU funds defined at EU, Romanian and Hungarian level?
2. How did the concept of fraud evolve from a historical perspective before the advent of the European Funds?
3. What is the conceptual distinction between fraud in general and fraud involving non-reimbursable funds?

### **In correlation with objective 2 and 4 / hypothesis 2:**

1. How does the anti-fraud legislation compare between the EU, Romania and Hungary?
2. What are the similarities, differences and improvements that could be made by the main control authorities (OLAF, DLAF, OLAF Coordination Office and EPPO) in the area of fraud involving EU funds?
3. What are the prevention, detection and control mechanisms applied by the control authorities of the European Union, Romania and Hungary in view of PIF?

4. What fraud methods have been discovered in Romania and Hungary? What correlations and mismatches exist between prevention, detection, control mechanisms and fraud methods?

**In relation to objective 3 / hypothesis 3:**

1. How familiar are the individuals involved with EU funds with the practical knowledge of the field, in terms of control authorities, anti-fraud legislation, fraud methods, but also prevention, detection and control?
2. Are there situations or risks that some beneficiaries commit fraud with European funds without intention or knowledge?
3. Through which instruments can honest recipients of non-reimbursable funds be supported from the risk of committing fraud without intention and without knowing it?

**In correlation with objective 4 / hypotheses 1, 2:**

4. What specific and general recommendations can be made to combat more actively the phenomenon of fraud with non-reimbursable funds at EU, national (RO-HU), regional and local level, from the perspective of business beneficiaries, public officials and public authorities and consultants?

**Thesis structure and methodological aspects**

Research is constantly adapting between different levels of analysis and methods as needed. Briefly, in chapters 2, 3, 4 the geographical level of analysis is used, the study being carried out in comparative terms between the **EU level** (European Union) and the **national level** (Romania and Hungary). Two main methods are used at this level: document analysis and comparative study. Then, in Chapter 5, in addition to the EU and national levels, the **individual level** is introduced. The method used at this level is the case study and observation, or natural experiment. Then, in Chapter 6, the Community dimension is replaced by analysis at the level of the target group's **experience**, i.e. at the **geographical or cross-cultural level**, and the main method used is the questionnaire and focus group. Last but not least, Chapter 7 returns to the approach at geographical level (EU, national, regional and local) and at the level of stakeholder groups (private beneficiaries, public officials and authorities, consultants), creating three sets of 12 recommendations for each geographical level. The use of these levels of analysis is detailed below, together with the research methods and tools used.

Leaving aside the introductory and concluding chapters, the thesis proposes six chapters in which different research tools and methods are applied in order to deal in depth with the issue of fraud with non-reimbursable European funds. The first part of the research has a descriptive, explanatory style, with the second part increasing the role of the exploratory style.

In the first level of analysis, the EU and national levels, the comparative method and the document analysis method are used. The two methods are designed to make a comparison between aspects such as: the concept of fraud, institutional analysis, anti-fraud legislation, and methods and mechanisms of fraud, detection and control at the level of the European Union, Romania and Hungary in the period 2018-2022. This level of analysis has in particular the role of establishing the general framework within which each actor involved in the phenomenon of European funds is obliged to act. Subsequently, the analysis moves on to the individual level, to the group level according to their experience in managing non-reimbursable funds or according to their geographical position (Romania or Hungary).

The conceptual analysis and historical development is the tool on which the whole *Chapter 2 - Realities and perspectives of fraud with European funds in the European Union, Romania and Hungary is based. Conceptual analysis.* The content of the thesis revolves around the concepts of fraud, non-reimbursable European funds, irregularity or error. First of all, it was necessary to clearly define the concepts used and find common meanings. This was done through tools such as comparative analysis of definitions in explanatory dictionaries, bibliographical study and the use of historical analysis. This task was all the more difficult as three perspectives had to be harmonised: the European Union, Romania and Hungary. It was also necessary to make a clear distinction between fraud involving non-reimbursable European funds and other types of fraud. The meaning of the term has been delimited not only from a polysemantic perspective, but also in comparison with related legal terms such as irregularity and error. In addition, the conceptual analysis included a study of the conceptual development from a historical perspective, starting from the first documented cases of fraud, some notorious cases, examples from the Hungarian and Romanian area, and the current situation in the third millennium. Last but not least, through the statistical data made available by platforms such as Cohesion Data of the European Commission, a bridge between fraud and the world of non-reimbursable funds has been made, making an analysis of the non-reimbursable funding that Romania and Hungary are part of in the period 2018-2022.

In terms of timeliness, the documentation incorporated data from the 2018-2022 period, and a final update was conducted before concluding the work to ensure a contemporary perspective. Relevance from a bibliographical point of view is mainly rendered by the method of



document and legislation analysis which, especially in the chapters on the anti-fraud legislative framework (Chapter 3) and the institutional framework (Chapter 4), contributed to the correct and objective description of the situation. *Chapter 3 - The legislative framework of anti-fraud policy in the European Union, Romania and Hungary* contains a comparative analysis between the EU and national levels. The first part of the chapter presents the anti-fraud legislation at EU level, focusing on the *PIF Conventions, the PIF Regulation and the PIF Directive*. The second part deals with how the PIF legislative framework in Romania and Hungary has adapted to the EU dimension. One of the tools used to make the comparison in this chapter was the monitoring platform provided by the European Commission that tracks the transposition of the *PIF Directive* in the Member States. This monitoring by the European Commission was also complemented by the preparation, on the basis of the Official Gazette of Romania and the Official Gazette of Hungary, of an inventory of all Romanian and Hungarian legislation on PIF.

The enforcement of the legislation investigated in Chapter 3 is ensured by the control institutions presented in *Chapter 4 - Institutional framework. European, Romanian and Hungarian control authorities*. The European Anti-Fraud Office and the European Public Prosecutor's Office, the supranational actors, are studied together, with an OLAF contact point in each country - the Anti-Fraud Department for Romania and the OLAF Coordination Office for Hungary. In order to understand the functioning of these institutions, their online presence was analysed, the structure with which they operate, their main tasks, administrative capacity, the acts of establishment, the relationship of subordination and collaboration with other institutions. In the relationship with these institutions, the experiment method was also applied, whereby the author conducted electronic correspondence with each institution in order to test compliance with legal deadlines, openness to dialogue, speed and clarity of the answers provided. The authorities' responses have been included in the paper and are also included in the *Annexes*.

As regards the tool used to analyse the websites of the institutions, the research aimed to go through and analyse in detail the online presence of these institutions. The purpose of this approach was to observe from the perspective of European citizens the transparency, the ease of identifying the information sought and the usefulness of these pages. Clear and easy-to-access information is a way of preventing irregularities or fraud, so we believe it is important to have this data on the institutions' pages. Also, through the search engines of the main news portals in Romania and Hungary, the presence of DLAF and OLAF Coordination Office in the press was studied. The presence in news portals should complement the online presence of the two entities and reflects to some extent how active the entity is and how important the impact of the work in society is.

In order to strengthen the relevance, some of the most active authors in the field have been studied or quoted in the three geographical areas studied. Among them are I. Bostan<sup>5</sup>, I. Costea<sup>6</sup>, A. Dragodan<sup>7</sup>, Á. Erdős<sup>8</sup>, N. Ghinea<sup>9</sup>, N. Ilett<sup>10</sup>, P. Klotz<sup>11</sup>, D. Meijers<sup>12</sup>, N. Neagu<sup>13</sup>, Gy. Nyikos<sup>14</sup>, C. Oneț<sup>15</sup>, G. Paraschiv<sup>16</sup>, B. Quirke<sup>17</sup>, G. Sabathil<sup>19</sup>, B. Udvarhelyi<sup>20</sup> and S. White<sup>21</sup>. The final pillar on which the literature review was based, the diversity pillar, was ticked not only by the significant number of papers and documents used to elucidate the hypotheses, but also by the variety of sources, including: general works, reference and scholarly works, doctoral theses, scholarly journals, scientific communications, scientific and statistical reports, official documents and reports, normative acts, synthesis studies, press, official responses and online sources. In order to provide the necessary rigour to the study, only current and official sources such as the Official Journal of the European Union, the Official Gazette of Romania and the Official Gazette of Hungary were used in the legislative analysis.

*Chapter 5 - Fraud methods and control mechanisms: a comparative study Romania-Ungarua*, in addition to the EU and national level, introduces the individual level of analysis. In the first part, the comparative and document analysis methods are used at the EU and national

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<sup>5</sup> Bostan, Ionel and Pete, Ștefan, *Deturnarea fondurilor europene. (I)regularitate și corecții financiare: practica judiciară relevante*, Bucharest: Editura Hamangiu, 2015.

<sup>6</sup> Costea, Ioana-Maria, *Protection of the Financial Interests of the European Union*, Analele Științifice Ale Universității "Al. I. Cuza" Iasi, Volume LII, 2006.

<sup>7</sup> Dragodan, Arina, *New means of combating tax fraud and evasion in the EU and internationally. Impact on national law*, Acad. Andrei Rădulescu, Legal Research Institute of Romanian Academy, 2017.

<sup>8</sup> Erdős, Ákos, *Integrált pénzügyőri ismeretek I. Kezdő pénzügyőrök kézikönyve*, Magyar Rendészettudományi Társaság Vám - és Pénzügyőri Tagozata, Budapest, 2018.

<sup>9</sup> Ghinea, Nicolae; Petcu, Paul, *Considerations Regarding the Management of the Fraud Investigation Affecting the Financial Interests of the European Union*, Journal of International Comparative Management, vol. S1/2009.

<sup>10</sup> Ilett, Nicholas, *The European Anti-Fraud Office (OLAF)*, Journal of Financial Crime, vol. 12, no. 2, April 2005.

<sup>11</sup> Klotz, Péter, *Az Európai Unió korrupció elleni politikája - két lépés előre, egy lépés hátra?*, Külügyi Műhely, no. 1, 2020.

<sup>12</sup> Meijers, Derek; Moonen, Gaston, *Calling for strategic fraud management Interview with Juhan Parts, ECA Member*, ECA Journal, vol. 2, 2019.

<sup>13</sup> Neagu, Norel, *Fraud against the European Union budget and VAT tax evasion - national criminal policy versus European criminal policy*, Romanian Journal of Criminal Business Law, no. 1, 2018.

<sup>14</sup> Nyikos, Györgyi; Kondor, Zsuzsanna, *The Hungarian Experiences with Handling Irregularities in the Use of EU Funds*, NISPACEE Journal of Public Administration and Policy, vol. 12, no. 1, 1 June 2019.

<sup>15</sup> Oneț, Cristina, *The Anti-Fraud Directorate General, from necessity to reality*, Acta Universitatis Lucian Blaga. Iurisprudentia, vol. 1, 2014.

<sup>16</sup> Paraschiv, Gavril, *EU Criminal Law*, Bucharest, C.H. Beck, 2008.

<sup>17</sup> Quirke, Brendan, *OLAF's role in the fight against fraud in the EU: do too many cooks spoil the broth?*, Crime, Law and Social Change, vol. 53, no. 1, February 2010.

<sup>18</sup> Quirke, Brendan, *OLAF: the fight against EU fraud*, Journal of Financial Crime, vol. 14, no. 2, 15 May 2007.

<sup>19</sup> Sabathil, Gerhard; Joos, Klemens; Kessler, Bernd, *The European Commission: an essential guide to the institution, the procedures and the policies*, Kogan Page, London; Philadelphia, 2008.

<sup>20</sup> Udvarhelyi, Bence, *Az uniós költségvetést sértő bűncselekmények elleni fellépés aktuális eredményei az uniós és a magyar jogban*, Országos Kriminológiai Intézet, vol. 1, no. IV, 2019.

<sup>21</sup> White, Simone, *Investigating EC Fraud: The Metamorphosis of UCLAF*, Journal of Financial Crime, vol. 6, no. 3, January 1999.

levels to compare the mechanisms for preventing, detecting and responding to fraud with non-reimbursable funds and fraud methods. In the second part the individual level of analysis is added using the case studies, observation and experiment method.

By individual level analysis we mean the detailed analysis of three illustrative cases, two of which are from Romania and one from Hungary. In contrast to the first level of the analysis, the EU-national level, where data were analysed at macro level, at the individual level, all the elements clarified so far, whether of a legislative or institutional nature, are applied at the individual level, so that the research has a practical dimension and application.

These case studies have been used to exemplify and present at length different suspected fraud cases. The first case is the famous *Measure 3 - Investment Grants*, established by *Emergency Ordinance 130/2020*, where 27,000 affected Romanian applicants have been waiting since 2020 for the results of investigations that seem to never end<sup>22</sup>. This example is eloquent to illustrate the assumptions on which the paper is based, especially in terms of the use of terms and the understanding of the concept of fraud. The second case represents one of the situations where the method of natural observation could be used by the author. *Sub-chapter 5.4 Fraud without knowledge* relates a case documented for the first time in written form in this research. Given the sensitivity of the information and the confidentiality clauses between the parties, all data have been edited to protect the identity of the parties. Fraud without knowledge is a case which, even only in theory, is so frequent that it was one of the reasons for starting this research. The case shows a beneficiary, guided not exactly correctly but apparently in good faith, who used illegally obtained funding and only later found out that he may have committed, if not fraud, at least an irregularity. The latest case study examines the situation of illegal subsidies for agricultural land in Hungary, which was carried out with the involvement of control authorities through the formation of a criminal group. Unlike the first two accounts, the Hungarian case is sufficiently mature that the decision taken by the judges could be consulted, so that the consequences of committing similar offences can also be better understood.

While up to this stage there have been two levels of analysis, the Community and national levels and the individual level, the last part of the paper introduces a third level of analysis, which coexists with the individual level until the *Final Considerations*. The third level of analysis is divided into two categories. The first category is geographical and/or intercultural. With this categorisation, respondents to the questionnaire are categorised according to the country they come

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<sup>22</sup> Marian Păvălașc, *The DNA investigation / list of the "lucky" firms affected by the pandemic*, Europa Liberă, <https://romania.europalibera.org/a/verificările-dna-lista-firme-afectate-de-pandemie-suspiciuni-frauda-ajutor-de-stat/31119686.html>, accessed 15 July 2023.

from, the culture they belong to, i.e. Romania or Hungary, respectively Romanian or Hungarian culture. The second category refers to the division of the same target group according to the experience of the members in the field of fraud with European funds. This results in a control group which has relevant experience with OLAF and a control group which has relevant experience with EU funds but not directly or actively with OLAF.

Quantitative methods, such as questionnaires, and qualitative methods, such as focus groups, are applied to obtain and complete the results of *Chapter 6 - Applied analysis: the problem of fraud with European funds and solutions for improvement*. After having analysed in the previous chapters the documents, literature and official data of the European Union, Romania and Hungary and having researched the case of fraud with non-reimbursable funds in the two countries under comparison, we propose an in-depth qualitative analysis, with the aim of validating and verifying the phenomenon of fraud both at the level of conceptual expression and at the level of its perception and spread. To this end, we propose to carry out a complex survey, implemented on two levels of analysis:

1. Questionnaire survey of 133 people involved in the field of European funds in Romania and Hungary
2. From the respondents to the questionnaire, we choose 10 specialists to carry out a qualitative in-depth research focus group in order to outline the guidance to support beneficiaries in managing non-reimbursable funds and the digital platform - second opinion in non-reimbursable funds.

Both the questionnaire and the focus group were chosen as research methods because the field of fraud, by its nature, manages to keep much of the data at the grass roots in a grey, undiscovered area. Even if up to this point all the official data, scientific research, existing statistical data, discovered cases have been analysed, there is still a part that can only come to light through the expression of a relevant number of specialists in the field. It is the specialists who interact with claimants and beneficiaries on a daily basis who are best placed to express their views on the pulse of fraud in the market. They understand the difficulties encountered by each stakeholder in the field, can see the consequences of unclear or predictable legislation, misinterpretation of concepts in the field, or lack of understanding of how the authorities operate and of preventive, detection and control methods. At the same time, these specialists, and not only those with whom they work, are also affected by all this, and the questionnaire is therefore a good opportunity to observe the state of knowledge in the field, their opinions, the respondents' reactions to different situations and some data on personal experiences.

The questionnaire aims to obtain quantitative data from 133 people who are fully or partially involved in the field of non-reimbursable funds. These people have in common previous experience in managing such funding in Hungary or Romania. The respondents included consultants, civil servants, beneficiaries and other stakeholders. Sampling was carried out using the cluster method, whereby the most relevant groups in the field were identified for inclusion. The questionnaire has a total of 34 fields and questions, some of which are optional and others mandatory. In the introductory part, data is collected to establish the main categories of questionnaire participants. The survey is further divided into three parts: definitions and opinions, situation simulation and experience. At the end, respondents can leave any opinions and have the option to express their openness to participate in the focus group.

The focus group conducted under the moderation of the author is used as a qualitative method to complement the analysis of the quantitative data generated in the questionnaire. The ten focus group participants were selected through several filters. The first filter was their expression of agreement and openness to participate in the focus group at the end of the questionnaire. The second filter was relevant experience and domain knowledge, and the third was to ensure balance and appropriate diversity within the group. Finally, an eleventh member, ChatGPT Variant 4, was added to the group, who responded as a Hungarian legislator.

On the one hand, the five representatives for the Romanian side were chosen on the basis of their experience of at least 10 years in the field and because of their ability to understand the two subjects that were dealt with; two people are female - one with a background in consultancy, with experience as a beneficiary, a specialist in financial analysis and, at the time of the drafting of the project, an employee of a commercial bank, and the other director of a consultancy department in non-reimbursable funds, with more than 90 specialist consultants under her supervision. The other three persons, male, are represented by the technical director of the same consultancy firm, who also has experience in dealing with OLAF, the director for rural development and agriculture programmes and the operational director, an expert, speaker at numerous events and responsible for coordinating the work of around 150 people in the field.

The Hungarian side, on the other hand, is represented more by researchers, professors and practitioners in the field. One of the participants in the focus group is a university professor, legal specialist and expert in Transparency International Hungary. The other participant is an auditor, tax consultant, business consultant in a specialist company in the field in Hungary. As for the male participants, one has been a university professor and researcher since 2018, but by then he has also gained experience as a beneficiary, grant fund consultant and anti-corruption expert. The second

is a business consultant with about 5 years of experience in the field, while the third is also a business consultant, working in the field since 2007.

The focus group was more like a brainstorming session or think tank whereby the guidance for supporting beneficiaries in managing grant funds and the digital second opinion platform in grant funds were critiqued, analysed and completed. The issue of fraud with EU funds in Hungary and Romania is addressed based on the themes found in the questionnaire.

*Chapter 7 - Combating fraud with non-reimbursable funds: set of recommendations*, following the collection of quantitative and qualitative data, after researching all official data and information related to the concept, legislation, authorities, methods of fraud and combating the phenomenon, respectively following the in-depth qualitative analysis carried out by questionnaire and focus group with relevant persons involved in the field, proposes to design a set of recommendations in order to combat the phenomenon more actively and effectively. The recommendations are divided into two groups of variables:

1. by geographical level: a. European Union, b. Romania and Hungary, c. Regional and Local
2. depending on the category concerned: a. business beneficiaries, b. civil servants and public authorities, c. consultants

For each category, at least one recommendation, more general or more specific, is made on four main themes. The themes are:

- I. Fraud at concept level
- II. Anti-fraud legislation
- III. Fraud control authorities
- IV. Methods of fraud prevention, detection and control

Comparative study is the cross-cutting method, which drives the whole spirit of the research and is found from beginning to end. Mainly, all the topics addressed, from the concept to the methods of fraud detection and control, are seen through the prism of the two Member States of the European Union, Romania and Hungary. This scientific approach is not only intended to bring together the status quo in the field of non-reimbursable funds in the two countries, but also to create the conditions whereby the two entities can learn from each other's experience. In terms of the classification of the comparative method used, qualitative, retrospective, descriptive and macrosystemic classification are included in this thesis. The period in which the comparative study is addressed is 2018-2022.

## **Results**

The study started from the **hypothesis (1)** that, at a conceptual level, fraud with European funds does not have a universally valid meaning, understanding and interpretation at the level of the European Union and the two countries of the analysis, as there are differences in the perceived meaning and use of the concept between different individuals, social groups or even institutions. In this sense, the **first objective** of the paper was to define and conceptually delimit fraud with European funds. In order to achieve this objective and to confirm or refute the hypothesis, the concept of fraud in the field of non-reimbursable funds was clearly defined in *Chapter 2. Realities and perspectives of fraud with European funds in the European Union, Romania and Hungary. Conceptual analysis*, through a conceptual scrutiny that focused on the European Union, Romania and Hungary, through a historical analysis, by delimiting close concepts such as irregularity or error and by linking the term to the field of European funding.

As a result, it has been clarified, **contrary to assumption (1)**, that fraud has a fairly close meaning, known and used in all three geographical areas. This meaning, including from a legal point of view, in the European Union, Romania and Hungary is that fraud with European funds is any action or inaction, committed with intent, which has gone through the administrative path of suspected fraud, which has caused or could cause damage to the financial interests (expenditure, revenue and assets) of the European Union budget, other donors or Member States' budgets, where Community funds are involved and which involves the use of false, incorrect or incomplete statements/documents, the non-disclosure of information in violation of specific obligations, or the misappropriation of funds for purposes other than those for which they were granted. In addition to this definition we also add that error, irregularity and fraud not only have different consequences, but are also distinguished by the fact that error is a minor failure to comply with a provision due to carelessness but without malice, while fraud and irregularity are distinguished from each other by the lack of intentional behaviour in the case of irregularity. All this information is the result of **research questions 1 and 3, which** are related to objective 1 and hypothesis 1 on how the concept of fraud with EU funds is defined at EU, Romanian and Hungarian level, i.e. on the conceptual delimitation of fraud in general and fraud with EU funds.

In relation to **research question 2 linked to objective 1 and hypothesis 1**, on the historical development of fraud before the advent of non-reimbursable funds, the following conclusions were drawn. Fraudulent behaviour is a behaviour that has been present since the dawn of history, all over the Earth, and is manifested not only in humans but also in the animal and even plant kingdoms. An analysis of the history of fraud has shown that this behaviour has a great capacity to adapt as society evolves, which is why preventive elements must also be constantly updated. From the large and famous cases of fraud we note that they have been much more long-lived and

have caused much greater damage compared to cases of fraud with European funds, in particular due to the fact that interventions with European funds are limited in time, are carefully monitored and regulated and, in addition, are also financially limited, on a much smaller scale than a Ponzi scheme. From the perspective of adapting fraud to the modern world, in addition to all that is happening in the field of IT and security or cyber fraud, the non-reimbursable European funds are a good example of an opportunity that can be exploited by white-collar criminals. This opportunity is all the greater, all the more attractive because there are many more opportunities in the 2020-2023 period than in previous periods, because the closure of the 2014-2020 Multiannual Financial Framework overlaps with that of 2021-2027, there is the National Recovery and Resilience Plan and national funds, and there was also the aid for COVID and that generated by the large-scale invasion of the Russian Federation in Ukraine. In such a situation, managing authorities are stretched in terms of the workload and the amount of information they have to absorb, and this can lead to a decrease in the vigilance of those authorities. This inflation of opportunities also affects the specialists in the field, as well as the applicants and beneficiaries, because these categories will also find it increasingly difficult to find the time to go through every detail of each project from cover to cover. A decrease in this vigilance on the part of the authorities could leave room for fraud by malicious applicants, and on the part of applicants and beneficiaries could mean the first mistakes, as is also clear from the guidance for the protection of beneficiaries in the management of non-reimbursable funds, which can create the premises for irregularities or fraud.

Considering that, through the answers identified to the research questions for the first specific objective, the first hypothesis has been refuted, we conclude that the concept of fraud is sufficiently understood and used in the geographical area of the present analysis and, furthermore, we note that the terms fraud, irregularity, error have been defined through a conceptual analysis, historical analysis and that the importance of the correlation with the field of non-reimbursable funds has been sufficiently explained. In this way, the **first result of the work** is to clarify the terminology used, in particular with reference to the concept of fraud with European funds and to obtain a good understanding of the notions used (irregularity, error, European funds), both from a current and historical perspective.

This conclusion is reinforced by the results of the questionnaire, where it appears from the answers that the people involved in the field manage and understand the concept of fraud sufficiently well. The only cases in the paper that contradict the theoretical and practical data on the concept are those presented in *Sub-chapter 5.3 Emergency Ordinance 130/2020 - Measure 3 - Investment Grants* and in *Sub-chapter 5.4 Case Study - Fraud without knowledge*. In this case



study the misuse of concepts was found, but this cannot counterbalance the results of the concept study and the responses of more than 100 stakeholders.

The second specific objective that was at the basis of this PhD thesis was the need to know the whole ecosystem that makes up the field of fraud with non-reimbursable funds in the European Union, Romania and Hungary. By ecosystem we mean including - but not limited to - the institutional control framework, anti-fraud policy and legislation, fraud methods and prevention, detection and control mechanisms in the period 2018-2022. More concretely, based on the **assumption (2)** that there are differences between EU and national legislation, control authorities and fraud mechanisms and methods and that further harmonisation is needed, the **secondary objective** was to make a theoretical comparative analysis of the legislative and institutional framework and mechanisms of fraud with EU funds at EU, Romanian and Hungarian level. Therefore:

- a) *Chapter 3. The legislative framework of anti-fraud policy in the European Union, Romania and Hungary* made a comprehensive inventory of anti-fraud legislation at EU and national level in order to study how anti-fraud legislation compares at EU, Romanian and Hungarian level (**research question 1 in relation to objective 2 and hypothesis 2**).
- b) *Chapter 4. Institutional framework. The European, Romanian and Hungarian control authorities* studied the European (OLAF, EPPO), Romanian (DLAF) and Hungarian (OLAF Coordination Office) control institutions in order to understand what similarities, differences and improvements the main control authorities could make in this area (**research question 2 in relation to objective 2 and hypothesis 2**).
- c) *Chapter 5. Fraud methods and control mechanisms: Romania-Hungary comparative study* touched on the methods of fraud and those of combating fraud through prevention, detection, control and response to fraud (**research questions 3 and 4 in relation to objective 2 and hypothesis 2**).

As a result of this work, it has emerged that the main pieces of legislation governing fraud at EU level are the *Convention*, the *Regulation* and the *PIF Directive* and it has been established that these, in particular the *PIF Directive*, have been taken over by Romania and Hungary in a very similar way. Thus, in both Member States there are more or less the same provisions on the protection of the EU's financial interests and own budgets, with minor differences, whereby the Member States have not transposed the provisions exactly as the European Commission wished, or represented by cases of over-regulation. From this point of view, there is now (2023) a

harmonisation at the level of the entities in the analysis of the aspects which refer - without being exhaustive - to: the definition of the concept of fraud; the fact that instigation, complicity and attempt are also offences; controls, measures and administrative sanctions; the importance of recovering damages; the application of the rules also to natural persons, the emphasis on the importance of committing fraud with intent; the need to introduce minimum and proportionate sanctions.

Even if Romania and Hungary took a different approach in taking the European direction, they basically kept the provisions that exist in each Member State of the European Union, which is why we conclude that, from the point of view of legislation, the differences between the direction imposed by the European Union and the variants taken by Romania and Hungary are minimal, there is a legislative harmony from this point of view, i.e. we point out that in some respects the national legislation exceeds the expectations from Brussels, while in other respects there is sometimes a legislative inflation. For the future, given that more than five years have already passed since the *PIF Directive*, it would be useful to update the legislation in order to incorporate all the experience gained during this period, on the one hand, and to eliminate the sometimes Kafkaesque situations in which applicants and beneficiaries can end up, on the other.

The understanding of the institutional framework of the European, Romanian and Hungarian control authorities consisted of the issues of history, online presence, role, management and administrative capacity, i.e. the dialogue with OLAF, DLAF in the case of Romania, the OLAF Coordination Office of Hungary and the European Public Prosecutor's Office. If from the point of view of legislation we have concluded that there is a certain harmony between Romania and Hungary, from the institutional point of view things differ to a remarkable extent. In Romania, the OLAF Contact Point has a much more important role than in Hungary, which is confirmed at least by the following: the existence of legal personality in Romania, whereas in Hungary they are part of the NAV, the number of persons working in these institutions (100 vs. 10) and the role or the way of operating and executing tasks. As far as the role is concerned, we clarify that it is similar, but in the case of DLAF, the execution is the responsibility of the institution's employees, while the Hungarian counterparts rely on other departments within their institution to carry out certain actions.

In both countries, as for OLAF, the role of these entities is to step up the fight against fraud through intelligence gathering, legislative improvement, technical assistance or control actions. Finally, OLAF, although apparently represented by a small team, has at least three important achievements in its existence: 1) detecting and recovering damages; 2) deterring, preventing and reducing illicit activities; 3) preparing legislation that integrates and coordinates the approach of

the Member States. In relation to the European Public Prosecutor's Office, there are not many differences, but they are essential: Romania is a participating member of the EPPO mechanism, while Hungary has only a protocol of cooperation with the institution and the option to join in the future. The European Public Prosecutor's Office has started investigating and prosecuting the many cases of EU funds where damages exceed €10,000 and the first results are starting to show, if not otherwise, at least by deterring potential offenders. In the future, OLAF and EPPO will not only have to co-exist, but also to find the methodology for good cooperation.

The prevention, detection and control mechanisms in place in Romania and Hungary to protect EU funds start with anti-fraud strategies and continue with measures such as public messages of zero tolerance for fraud and corruption, promotion of codes of ethics and integrity, awareness raising, incentives, involvement of society, investigative journalism and scientific research. Prevention is the best measure to protect the financial interests of the European Union, but where prevention fails, measures to detect, control and correct wrongdoing must come promptly. Unfortunately, neither Romania nor Hungary is doing very well in terms of the speed with which investigations and prosecutions are completed in such situations, and there is still room for increasing speed and transparency.

In the future we can expect IT tools to play a greater role in the detection and control stage. Therefore, interconnected and more transparent databases, satellite checks or digital tools, electronic signature or other such measures help to increase the efficiency of the work of public officials in control institutions. When a suspicion of fraud is detected, the bureaucratic process of verifying whether the suspicion is confirmed or not starts, and if it is confirmed, the competent authorities are notified in order to establish the existence of intent in committing the act, and depending on these circumstances the act is classified as an irregularity or fraud. Subsequently, once the whole process has been completed, the sanctions to be imposed in each individual case are also dictated, but these would require in both countries a greater echo, a shorter duration and greater transparency, according to the data presented in the paper.

Fraud methods, as already demonstrated in the sub-chapter on the evolution of fraud, are constantly adapting in the micro-climate of European funds. Sometimes methods are used in isolation, while often some methods are combined with others and fraud becomes quite complex. The use of funds for a purpose other than that for which they were granted, the return of own contributions, favouring certain participants in procurement procedures, falsification of documents are just some of the examples that can be encountered. To better understand the complex situations, three cases were presented where fraud could have been suspected. The Hungarian case presented shows how Hungarian agricultural subsidies were fraudulently evaded and what the penalties

were. The second case looked at a case where some could be in a situation of fraud, or at least misrepresentation, even without being aware of it. The first case, which affected almost 30,000 companies and where investigations have been going on for over two and a half years, shows a situation where the market thought that fraud was being committed, when in fact the evaluation of projects had not even started, so there were no financial implications. Consequently, in this case there can be no question of fraud, but possibly corruption.

Finally, all these elements have contributed to a precise and integrated presentation and theoretical comparative analysis of the legal framework of anti-fraud policy, the framework of the control institutions, the mechanisms of prevention, detection and control of fraud and, of course, the methods of fraud. There are aspects that need to be improved, there are lessons that have been learned, and all of them contribute to a better overall framework for the protection of the European Union's financial interests and the fight against fraud. In this respect, we conclude that the **second hypothesis** on the existence of differences and the need for harmonisation on the issues mentioned between the European Union, Romania and Hungary is **confirmed**. In addition, the expected **secondary result of a** precise and exhaustive presentation of the institutional control framework, anti-fraud policy, methods of fraud and mechanisms for preventing, detecting and controlling fraud with European funds at EU, Romanian and Hungarian level and the identification of aspects requiring improvement from a legislative and/or institutional point of view and the identification of correlations or mismatches between the methods of fraud and those of combating fraud has been achieved.

Most applicants and beneficiaries of EU funds are not in bad faith and do not seek to damage the financial interests of the European Union or national budgets. However, due to the complexity of the legislative and institutional framework at EU, Romanian and Hungarian level, as described in the first two specific objectives, as well as the specific information and rules of each funding programme, and according to the answers given by 75% of the respondents to the questionnaire, some may make unintentional mistakes, generating more problems than they solve with the funding. Consequently, they need tools to protect them. Based on this **hypothesis (3)**, **specific objective 3** was set - to develop tools to support beneficiaries of EU funds in managing programmes and to avoid fraud.

In order to achieve this objective, an approach was taken to examine the practical perception of fraud with European funds by conducting a comparative study between the Hungarian and Romanian markets, using questionnaires or organising focus groups, to verify the

applied knowledge of people involved in this field<sup>23</sup> , to develop a concise safety guide on supporting beneficiaries and the proper use of European funds and to design an innovative digital second opinion platform in non-reimbursable funds. As regards the development of the guidance and the digital second opinion platform in non-reimbursable funds, they aimed at identifying answers to **research question 3, in correlation with objective 3 and hypothesis 3** on the tools that can be designed to protect honest beneficiaries of non-reimbursable funds from the risk of committing fraud with non-reimbursable funds unintentionally and unknowingly.

The level of familiarity with practical knowledge in the field of EU funds varies between individuals, depending on their country of origin, years of experience in the field and whether or not they have ever dealt with OLAF. Through the answers given by the survey participants, a link was established between the legislator's intentions and the legal situation on the one hand, and the market reality and the actual situation on the other. In addition to **confirming hypothesis (3)** that the vastness of the field can lead to unintentional mistakes on the part of beneficiaries, several other conclusions were drawn. The concept of fraud is well understood, the work of the European Public Prosecutor's Office is appreciated, but respondents consider that fraud remains a problem at both national and EU level. The most common frauds concern corruption, conflict of interest, bribery or illegal commissions, and the most desired punitive measures, with some variation depending on the seriousness of the offence, are confiscation of illicit assets and recovery of the damage. Fraud, according to the data, is committed equally by the private and the public sector, or rather by the public sector, i.e. it is evenly divided between committing these offences individually or collectively. The main reasons for committing fraud are the impression that fraud will go unpunished and greed, although the control group reported that it is slightly easier to commit fraud than to commit fraud without being caught. If a survey participant discovers that a known person is committing fraud, most would warn the person and explain the mistake, while others would break contact with the person, alert the authorities or remain indifferent. Although all respondents are familiar with the field, half are unaware of fraud cases, while the current status of known cases varies and outcomes may include not guilty, various criminal sanctions or recovery of damages.

Another result of this specific objective was the creation of guidance to support beneficiaries in managing grant funds. A secondary aim of the work, which is to serve the general

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<sup>23</sup> Author's note: This answers research questions 1 and 2, which are related to objective 3 and hypothesis 3. The questions were: (1) How familiar are the individuals involved with EU funds with their practical knowledge of the field, in particular in terms of control authorities, anti-fraud legislation, fraud methods, and prevention, detection and control? (2) Are there situations or risks of beneficiaries committing fraud with European funds without intention or knowledge?

interest of society, was also achieved by the creation of this guide. The guide for supporting private beneficiaries in the management of non-reimbursable funds aims to prevent situations where they may unintentionally commit fraud. It follows the stages of a project from identification of the opportunity to completion of sustainability and provides accessible explanations to avoid problems. Key tips include a preventive, vigilant and proactive approach, meticulous project preparation, fully understanding and assuming conditions and commitments, working with carefully selected specialists and complying with all legal requirements.

Although at the beginning of the work the tools to support beneficiaries were only aimed at the development of guidance, the academic effort also produced another tool, which is also the most important practical contribution of the work to the field. Step by step, the concept of fraud or irregularity has been analysed in detail at a theoretical level, the control authorities have been researched, the legislation in the field has been studied, the methods of fraud and of combating the phenomenon have been dissected, data on the understanding of the field have been gathered from the actors in the field and thus some hypotheses have been confirmed and new things have been discovered and, of course, a practical guide to fraud prevention and avoidance has been created. The guide is a static element, going through it and reading the whole work is an elementary part of educating all those interested in accessing non-reimbursable funds and we believe that it adds to the preventive part, explaining fraud situations, risks and consequences to which applicants and beneficiaries are exposed. However, it was also established that fraud is a constantly evolving phenomenon and it was also concluded that the field is very broad and constantly changing. Even if the general principles remain valid, there is also a need for a dynamic element to support beneficiaries in the management of their own projects, especially at times when they end up in complicated and sometimes, at least from their perspective, dead-end situations.

All the data gathered, analysed, understood and the need to have this dynamism led to the conceptual framework and the development of a theoretical model, unique at EU level, of a digital second opinion platform in the field of non-reimbursable funds, similar to the existing ones in the field of health. The digital second opinion platform for European non-reimbursable funds will also have a dedicated module for fraud and irregularities situations, where users can submit requests and questions anonymously. The digital second opinion platform would provide expert and verified answers in a short time and for a fee to the various problems encountered by users/applicants/beneficiaries. The platform's capabilities would also include official answers as well as the integration of artificial intelligence and machine learning. The ultimate goal is for a chatbot to answer common questions quickly, accurately and affordably, and in more complex

cases users would be able to rely on the opinion of specialists, who have been carefully selected from various relevant fields.

In conclusion, the quantitative and qualitative data gathered through the questionnaire and focus group, through the case study analysis, **confirms hypothesis 3**, that most beneficiaries do not intend to commit fraud with EU funds, but need tools to help them avoid it. **Objective 3** of the paper is met by obtaining the two results:

- I. producing a guide to help beneficiaries manage non-reimbursable funds;
- II. Designing a digital second opinion platform in non-reimbursable funds to protect beneficiaries from committing offences against EU financial interests or national budgets without their knowledge and consent.

Taking into account all the information gathered and analysed during the research, the possibility of going beyond the initial aim of clarifying the issue of fraud of European funds by making concrete contributions to improving the fight against the phenomenon has arisen. **Research question 1, in connection with objective 4**, raised the question of specific and general recommendations that could be formulated to combat more actively the phenomenon of fraud with non-reimbursable funds at EU, national (RO-HU), regional and local level, from the perspective of beneficiaries in the business world, public officials and public authorities and consultants.

To answer this research question, in *Chapter 7. Combating fraud with non-reimbursable European funds: set of recommendations* 36 recommendations were made. These are divided, in line with **objective 4**, at the different levels of analysis in order to combat even more effectively the phenomenon of fraud with non-reimbursable European funds. **Outcome 4** of this approach is the design of a set of 36 recommendations to combat fraud with non-reimbursable European funds more effectively at European, national, regional and local level on the one hand, and at the level of the various actors involved in the field, such as beneficiaries, consultants or civil servants, on the other. The recommendations cover the conceptual, legislative and institutional aspects, including prevention, detection and control of the phenomenon. Some of the recommendations made are in the general category, such as awareness, predictability, continuous training, cooperation, ethical and responsible attitude, while others are specific to the national or institutional level, such as the provisions dedicated to Hungary on the establishment of the Integrity Authority or the one addressed to DLAF to be more active in public communication.

We conclude by noting that the issue of fraud with European funds in Romania and Hungary for the period 2018-2022 is one step closer to clarification, and that the tools designed and the recommendations formulated can improve the field. Fraud will continue to be a

phenomenon present in society, but through will and common effort, beneficiaries of good faith can be protected from unpleasant situations and the offenders can be increasingly isolated.



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