

**Twining Project no. RO 07 / IB / FI / 03**  
**Strengthening the Public Finance Management –**  
**Support the Activity of Central Harmonisation Unit of Financial and**  
**Management Control Systems (CHUFMCS) in strengthening the FMC**  
**Systems in Public Institutions**

**Component 2**  
**Activity 2.1**

**FINAL DELIVERABLE**

**Procedure proposed by the Duch experts for applying the**  
**Standard 4 “Sensitive positions”**  
**in the Romanian public institutions**

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## 1) Introduction

In the description of Standard 4 '*Sensitive positions*', premises are included which state that the public entity identifies the positions classified as sensitive and establishes an adequate policy for the rotation of the employees that fill those positions. As general requirement is mentioned that in each entity are created:

- an inventory of sensitive positions;
- a list of the employees that fill sensitive positions;
- a plan to ensure the rotation of the employees in sensitive functions so that an employee will not be active in that position, usually, more than 5 years.

In the inventory of sensitive positions, usually, are reflected those positions that present a significant risk in rapport with the objectives. The rotations of employees will be done with a minimum effect on the activity of the public entity and employees.

The fiche of Standard 4 contains the essence of a policy framework of how to deal with sensitive positions by providing, within the scope of integrity and Order no. 946, the basic principles related to:

- structuring, classifying, recording, control and
- drafting a concise guideline to manage, execute and rotate sensitive positions.

In this document the principles of *Fiche Standard 4* will be recorded in a procedure for sensitive positions.

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## 2) System set-up of the working process

**Process owner** – Obligation of the management of the ministry (level Secretary General or higher) is to establish controls and control systems in order to prevent and to put under control the risks that would endanger the successful execution of the processes and sub processes meant for achieving the established objective of the given established system, meaning to provide conditions for controlling the risk so it can be managed effectively.

In order to execute one process accurately, effectively and efficiently, the manager/credit holder should introduce proper manuals-procedures, based on the issue of internal administrative acts of authority (decisions, orders, etc).

**Process responsible** – The authorized employed person should implement the process accurately, effectively and efficiently, based on the issued procedure-manual by the process owner.

**Process objective** – The process of deciding on and managing sensitive positions has an objective to provide legal, efficient and effective determining on sensitive position in the Romanian public entities in compliance with internal control standard number four on sensitive positions and the fiche on sensitive positions.

**Input elements in the process** – The process of determining on and managing sensitive positions starts with policy decisions of the SG or higher level on deciding on the necessity and opportunity that an inventory of sensitive positions should be made.

**Output elements in the process** – Final outputs of the process are:  
1) the list of the employees that fill sensitive positions  
2) the rotation plan, as a measure to make sure (comply or explain principle) that an employee will not hold a sensitive position for a period longer than five years.

**Application domain of this procedure** – The principles of this procedure can be applicable to all public institutions in Romania. Of course each public organisation can make some adjustments to fit its own specific organisational demands and to make this procedure tailor made.

**Implementation and counselling** – The Central Harmonization Unit of the Financial management and control Systems – general directorate of the Ministry of Public Finance will advise public institutions on implementing this procedure. Compliance with this procedure can be monitored by the internal control structure and internal audit department of the entity that has implemented the procedure.

### 3) Description of the working process, risks and controls

In this paragraph the detailed steps of the process of determining on and managing sensitive positions in public institutions will be comprised in a process flow of activities followed, each one of them, by a written explanation. Furthermore the proposed internal control measures for the risks in the process are described.

*Table no 1*

#### Process flow

Activity nr...	Workflow Process	Documents (used/produced)	SG	Public Officer	Controller	Administration	Risk profile
1	Management (SG level of higher) decides to have an inventory made of sensitive positions		D <sup>1</sup>				M
2	The public officer makes the inventory The controller checks this list with the basic principles	Concept list		E	C		M
3	Decision on concept list		D	E			M
4	Authorisation of the list	Final list	D				M
5	Rotation plan	Final rotation plan	D	E	C		M
6	Recording of list and rotation plan					K	M

- <sup>1</sup> D = Disposal  
K = Keeping  
R = Registering  
E = Executing  
C = Verifying (Control)

Remarks:

- The basis assumption is that applying the principle of segregation of duties will lead to a high probability of managing reliable and complete information as a result of joined action regarding the different interests.

- As an example, all risks are estimated to be medium. Depending on the specific organisational situation, the institutions will determine the real profile of each risk.

**Written explanation of activities of the process flow**

1) SG' Decision on inventorying the sensitive positions

The SG yearly decides to have an inventory made of sensitive positions within the public entity. Sensitive positions are positions that represent a significant (high) risk related to the objectives of the entity. The SG issues guidelines on which attention points should be taken into account in this inventarisation and when a position is, or might be, considered as a high risk area, in compliance with, article 15. Law No. 182 on protection of classified information, with the subsequent amendments. Through the 'Definitions' of this article, the law brings order, based on the criterion of level of securitization/secretcy, to the multiplicity of (sensitive) positions. A classification based on risks determines the risk level (1, 2, and 3) and the need and required depth of a security investigation of this kind. Based on the previous sensitive positions can be classified as follows.

<b>Classified level</b>	<b>Description:</b>	<b>Assigned to:</b>
1. State secret	Position in which a structurally possibility exist to become acquainted with state secrets	For the executing of their job it is necessary that employees have access to state secrets. Circle of authorized employees is usually very restricted
2. Secret	Position in exist the possibility to know work secrets.	Important positions in the sector (policy field) police, custom (et cetera)

The inventarisation is an activity that can be organised differently for every organisation. An approved risk management method will be carried out for the good management of the inventory activity.

Both impact and likelihood are considered. Areas of high risks are in general, the following:

- a) access to confidential information;
- b) money management;
- c) power and monopoly;
- d) grant rights / powers (to staff or citizens);
- e) assess and advise (with large consequences);
- f) public procurement of goods / services / works;
- g) conformity with legal norms;
- h) working in the direct influence of citizens, politicians or companies;
- i) the performance of an individual.

2) Inventory is made

The code of ethical conduct for civil servants (Law no 7/2004) states that public entities, through their managers, have to appoint, by issuing an administrative act, a public officer, usually from the human resources department, for ethical counselling and monitoring of behaviour norms compliance (whom can be named integrity coordinator). This public officer shall make the

inventory of sensitive positions for the public entity. The result of this inventory is a concept list of sensitive positions, which the head of the Human Resources Department verifies if it is in accordance with the guidance of the SG and complies with the law, if so, the Head will endorse it.

#### 3+4 ) Decision on concept list and finalization of the list

The SG is advised by the head of the Human Resources Department, internal audit and public inspector to approve the list. The approved list will be the list of sensitive position for the next year.

#### 5) Rotation plan

Together with the elaboration of the draft list with sensitive positions, a rotation plan proposal for staff in sensitive positions shall be drawn up. The draft rotation plan, including the exemptions to rotation, shall be drawn up, endorsed and approved by the same people, and following the same procedure, as in the case of inventorying the sensitive positions. Standard number four states that an employee shall not be, usually, in a sensitive position for more than five years. The idea here is comply or explain. It is recommended that the staff rotation measure be used only in those cases where other efficient control measures cannot be identified and applied against managing this kind of risk.

#### 6) Risks and controls

With regard to sensitive positions, controls can be identified on the following fields:

- Organization/Culture.
- Administrative organization/internal controls.
- Personnel policy.
- Security policy.

Controls can be applied on the following levels:

- Structure
- Process
- Culture

The controls on the organisational culture level are the controls to be mostly expected in the control environment. Those soft controls are as important as the hard controls, applied on other levels (structure or process). Regarding sensitive positions it is very important that a culture is developed that creates the necessary openness in debating the legal aspects related to sensitive positions.

**Table no. 2**

*Risks/Controls*

Activity nr. (of process Z)	Activity	Type of risks <sup>2</sup>	Description of the risk	Internal control measures	Employee/System	Frequency
1	Management (SG level of higher) decides to have an inventory made of sensitive positions	D <sup>1</sup>	Management does not decide or decides too late to have the inventarisation made	Programmed controls in IT system	System	Continuous
2	<ul style="list-style-type: none"> <li>•The public officer makes the inventory</li> <li>•The controller (head of HR department) checks this list with the basis principles and basic legal regulations, if and if it is positive, he approves it.</li> </ul>	R,C	The inventory/the controls does/do not comply with laws and regulations and is not complete	<ul style="list-style-type: none"> <li>Segregation of duties</li> <li>Screening of candidates</li> </ul>	Controller	Yearly
3	Decision on concept list (list finalisation and approval)					
4	Authorisation of the list	R,C	The inventory/the controls does/do not comply with laws and regulations and is not complete	Segregation of duties	Controller	Yearly
5	Rotation plan					
6	Recording of list	I	Data on the list can be changed	Adequate IT security policy	System	Continuous

<sup>3)</sup> D = Disposal  
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<sup>2</sup> Type of risks for instance: timeliness (1), completeness (2), reliability (3), et cetera.

Sensitive positions necessitates to screening of antecedents. Screening of candidates during the process of recruitment and selection prevents the possibility that employees, who in previous positions have shown non-inleger behavior, to be accepted. Article 7 paragraph 1 of Law No. 182/2002 prescribes that individuals who have access to state secret classified information will be screened in advance on their honesty and professionalism, regarding the use of such information. Paragraph 2, 3 and 4 of the same article provides specific rules for public offices and other specific officials. Law 182/2002 attributes tasks and responsibilities to the Romanian Intelligence Service, like for instance the:

- overall coordination of activities and control measures concerning the protection of state secret information;
- develop in corporation with public authorities, national standard for classified information and objective for the implementation;
- monitor actions taken by the government to implement the provisions of Law No. 182/2002.

#### 4) Regulation, legal basis of the working process

In accordance with standard no 4 and the fiche on sensitive positions the main references in the working process are:

- Law No. 53/2003: The labour code, with the subsequent modifications and completions;
- Law No. 188/1999 regarding the Statute of the civil servants, republished, with the subsequent modifications;
- Law No. 182/2002 on protection of classified information: Responsibilities public entity (specific activities which are related to sensitive positions) in relation to the applicable laws;
- Other regulations in the field of labour.

#### 5) Management information for monitoring and control

As stated in annex 1 of the fiche of standard no 17 (Procedures), it is important for the SG to get reliable and timely information on strategical, tactical and operational level regarding sensitive positions. In the table below suggestions are made, in this regards.

Level	Information
Strategical/Tactical	<ul style="list-style-type: none"> <li>• Policy information on a more governmental level with regard to (inventory of) sensitive positions in Romania.</li> </ul>
Operational	<ul style="list-style-type: none"> <li>• Changes in functions and names on the list of sensitive positions within the entity and on the list of employees holding a sensitive position.</li> <li>• Early warning about employees who will be in a sensitive position for five years in one or two years, with the purpose of possibly decide to include them in the rotation plan in the future.</li> </ul>