

# **Terms of service for the use of the Interreg IPA CBC ITALY ALBANIA MONTENEGRO electronic monitoring system (eMS)**

*Version 2 - July 2018*

## **1. OBJECT OF EMS**

1.1. The electronic Monitoring System (eMS) is provided for applicants and beneficiaries to allow them to create, prepare, revise and submit online forms (application and request for changes form, reports and payment claims and final reports).

1.2. These Terms of Service govern the relation between:

- The Regione Puglia, Dipartimento Sviluppo economico, innovazione, istruzione, formazione e lavoro (legal entity in which the Joint Secretariat is included), represented by the IPA CBC ITALY ALBANIA MONTENEGRO (Interreg IPA CBC IT-AL-ME) Managing Authority/Joint Secretariat (MA/JS); and
- Institutions/bodies acting as applicants in project proposals and beneficiaries in approved projects;
- Other bodies and actors involved in the programme implementation such as members of the Interreg IPA CBC IT-AL-ME Monitoring Committee, National Contact Points, national control bodies and national controllers, Audit Authority, Members of the Group of Auditors in relation to their access to and use of the eMS.

1.3. Requesting access to the eMS, accessing the eMS or using the eMS signifies unconditional acceptance of these Terms of Service (in the then-current version).

## **2. ACCESS TO eMSUSERS AND ORGANISATIONS**

Access to the eMS is open to natural persons with a valid email address. Access rights to certain information and functions in the eMS are restricted to users with specific roles in relation to particular proposals or projects. Project applicants and project partners' organisations shall access the eMS only via users employed by or representing them. If a user leaves the organisation or is no longer representing the organisation, the account of this person shall be closed and a new one shall be created if needed. It is the responsibility of the organisation to timely inform the Interreg IPA CBC IT-AL-ME MA/JS of such change or any substantial change and request in writing that the account is closed.

### 2.1. Means of access:



- Users access the eMS with their email address and a password provided by the system and encrypted into it. Users guarantee that the information provided for registration of their account is accurate, updated and that the email address provided is a valid personal email address. It is also the responsibility of users to make sure that they receive the emails automatically sent by the eMS system. The MA/JS has - at any time - the right to verify the validity of the information. If this reveals any inaccuracy or invalidity, the eMS administrator has the right to close the account or suspend, refuse or reset access.
- The means of access (i.e. the email address and password) are strictly personal and users are responsible for safeguarding their confidentiality and security, and ensuring their appropriate use. Users undertake to take all steps to prevent any unauthorized third party from gaining knowledge and making use of their means of access. They may not transfer or sell their means of access to any third party. Users must notify the MA/JS immediately of the loss, theft, breach of confidentiality or any risk of misuse of the means of access. If the MA/JS has any reason to suspect that the confidentiality or security of the means of access has been breached or that the eMS is being misused, it may - without prior notice - suspend or refuse access.
- The lead applicants and lead partners shall only grant access rights ('read' and/or 'write') to natural persons which are employed or represent project applicants or project partners in relation to the project(s) for which they are granted access rights.
- The JS personnel (except the administrators) have 'read only' access to the data submitted in the eMS by the project applicants/partners. The administrators and the developers have read and write access but shall not write, modify or submit data on behalf of the project applicants/partners unless it is requested by the lead applicant/partner in exceptional cases to modify data on their behalf.

### **3. USING THE eMS SYSTEM**

#### **3.1. General:**

- Users shall use the eMS in accordance with these Terms of Service, in a responsible manner, and exclusively for their professional purposes and without breach of the rights of third parties. eMS users agree to use and conduct all their activities in eMS in a duly and fair way according to *bona fide*.
- Users are fully and unconditionally responsible for any use of the eMS (including misuse of their means of access), and for any detrimental consequences that may arise directly or indirectly therefrom.
- Organisations acknowledge and accept that they are responsible for the actions and omissions of users employed by or representing them.
- The system keeps track of access to and use of the eMS.
- When full write access is given to project applicants/partners by the lead applicant/lead partner, forms shall however be submitted by a user employed by or representing the lead applicant/lead partner's organisation.

#### **3.2. Required hardware, software and services**

- Users acknowledge and agree that they are responsible for the choice, purchase and operation of any hardware, software or telecommunication Services required to connect with and to use the eMS. The MA/JS is not liable for hardware, software, products and Services of third parties, such as telecommunication equipment, internet connections, operating systems and internet browsers.

#### **3.3. eMS availability**

- The MA/JS does not guarantee that the eMS will be available without interruption or degradation of service at all times.

- However, the MA/JS will to the best of its abilities take reasonable care to ensure the availability of the eMS. In case of planned interruptions for maintenance purpose, the users will be promptly warned through a message posted on the eMS homepage.
- The MA/JS is not liable for any damage suffered in connection with the suspension or refusal of access.
- It is the responsibility of the lead applicant to submit their application by the deadline indicated in the call. The MA/JS cannot accept applications which fail to meet the deadline. It is advisable not to wait until the last minute before submitting the application form in the eMS, in case of exceptional web traffic or technical failure.

#### **4. PERSONAL DATA PROTECTION**

4.1. The personal data collected through the eMS by the MA/JS and other programme authorities are:

- Name and email address for users requesting access to the eMS;
- Name, department/unit/division (if applicable), organisation address, professional phone numbers (office number and optionally mobile number) and email address, for legal representative and contact person(s) of each applicant/beneficiary;
- Name, position, department, institution, organisation address, phone numbers (office number and optionally mobile number) and email address of the appointed national controllers.

4.2. The collected data are processed for the purpose of providing access to the eMS system, assessing project application forms, awarding funds to selected projects, as well as implementing, managing, monitoring and evaluating the subsidy contracts, protecting the financial interests of the EU (notably for verifications and audits) and for communicating on the Interreg IPA CBC IT-AL-ME Programme and its actions (projects and capitalization platforms).

4.3. The MA/JS is entitled to use personal data, which are contained in the project application form and which are acquired in the organs and authorised representatives of the following bodies and authorities: national control bodies and bodies and authorities involved in audits carried out for the programme, European Commission, auditing bodies of the European Union and the Regione Puglia, the Ministero dell'Economia of the Repubblica Italiana or any other institution responsible for conducting audits or controls according to European Union's or national laws. In addition, the MA/JS is entitled to use such data and to share them with other programmes in order to implement their tasks linked to European anti-corruption policy and to make such data available to bodies and authorities for evaluation and monitoring purposes.

4.4. The Interreg IPA CBC IT-AL-ME programme authorities shall be authorised to publish, in any and by any means, the following information:

- a. the name of the LP and its partners
- b. contact data of project representatives
- c. the project name d) the summary of the project activities
- d. the objectives of the project and the subsidy
- e. the project start and end dates
- f. the ERDF funding and the total eligible cost of the project
- g. the geographical location of the project implementation
- h. Abstracts of the progress reports and final report
- i. whether and how the project has previously been publicised

The MA/JS are entitled to furthermore use these data for information and communication purposes as listed in Annex XII of Regulation (EU) No 1303/2013.

4.5. Data included in the eMS will be kept in the eMS system for a period of at least 3 years after the closure of the Programme (expected in 2025 at the earliest), for auditing and communication purposes. They may be archived outside of the eMS system for a longer period for statistical and historical purpose. Any personal data collected in the eMS will be processed by the MA/JS in accordance with the GDPR General Data Protection Regulation (UE) 2016/679 and according to all the relevant provisions of Italian Law.

4.6. Applicants and beneficiaries are authorised by the MA/JS to collect and process personal data required in the online forms, provided that they have informed the personnel whose personal data are collected and processed about the conditions of collection and process of those data according to the eMS terms of Service (by providing them with a copy of these terms of Service) before transmitting those data to the MA/JS through the eMS.

4.7. According to the relevant rules of European Union Law and Italian Law, the persons whose personal data are processed have the right to access and correct their own personal data. For this purpose, they must send any queries about processing of their personal data to the MA/JS by sending an email to the mailbox indicated on the eMS homepage.

## **5. LIABILITY OF THE MA/JS**

5.1. The MA/JS shall not be liable for any direct or indirect damage of any kind except in the event of willful misconduct.

5.2. The MA/JS are not liable for any damage in case of force majeure, hardship, external cause or any other events which are not under the reasonable control of the MA/JS.

## **6. CHANGES TO THE TERMS OF SERVICE**

6.1. The MA/JS may, at any time, vary, add to or delete any provision of these Terms of Service.

6.2. Users and their organisations acknowledge and agree that such new Terms of Service can be notified by the MA/JS via notice on the eMS homepage. Unless otherwise stated in the notice, the new Terms of Service shall apply as from 7 days from the notice on the eMS homepage.

6.3. Users and their organisations acknowledge and agree that any modification to the Terms of Service shall be deemed accepted by them as from the first time they access or use the eMS after the date of entry into force of the new Terms of Service.

## **7. APPLICABLE LAW AND DISPUTE SETTLEMENT**

7.1. These Terms of Service are governed by Italian law and are under Italian Jurisdiction. For any disputes arising out of or in connection with these Terms of Service or the access to or use of the eMS, the administrative tribunal of Bari (TAR Tribunale Amministrativo Regionale di Bari) shall have exclusive jurisdiction if the dispute cannot be settled amicably.