

EU-OSHA Anti-Fraud Strategy 2019-2021

Step		Who
Step 1	Person in charge of drafting and updating the Anti-Fraud Strategy	Internal Control Officer
Step 2	Carrying out a fraud risk assessment	Internal Control Officer Management Group
Step 3	Preparing the draft Agency' objectives	Internal Control Officer
Step 4	Approving the Agency' objectives	Management Group
Step 5	Preparing an action plan, with indicators	Internal Control Officer
Step 6	Approving the action plan, with indicators	Management Group
Step 7	Adoption of the EU-OSHA Anti-fraud Strategy	Management Group Governing Board

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Annex

EU-OSHA Anti-Fraud Action plan 2019-2021

1 Background and purpose of the Anti-Fraud Strategy

1.1 Background

Articles 317 and 325 of the Treaty on the Functioning of the European Union (TFEU) are the legal basis regarding the protection of the financial interests of the Union and the fight against fraud affecting these interests.

On 24 June 2011, the Commission adopted its Anti-Fraud Strategy. The action plan accompanying this document tasked the European Anti-Fraud Office of the Commission (OLAF) with providing a methodology and guidance for Anti-Fraud Strategies (AFS) for EU agencies and other EU entities.

The Common Approach of the European Union adopted in July 2012 and its Roadmap (article 60 to 68) require a set of anti-fraud measures to be put in place in EU decentralised agencies.

In the context of the Discharge procedure, the European Parliament and the European Court of Auditors have also repeatedly called for better protection of the EU financial interests against fraud and irregularities as well as against the reputation of the EU institutions and bodies.

OLAF is responsible for investigating suspicions of fraud, in the scope of its tasks, OLAF drew up a methodology and guidance for AFS for EU decentralised agencies (Ares (2013)3560341). This methodology was presented to the Heads of Agencies in October 2013 and finally adopted by OLAF on 25 November 2013. EU-OSHA bases its Anti-Fraud Strategy on this methodology.

The EU-OSHA Anti-Fraud Strategy has been prepared following an Assessment of the EU-OSHA Anti-Fraud Strategy and Implementation Review of the EU-OSHA Action Plan 2015-2018.

1.2 Purpose of the Anti-Fraud Strategy

The overall purpose of the Anti-Fraud Strategy is to improve the prevention and detection of fraud, and the conditions for investigation of fraud and to achieve adequate reparation and deterrence, with proportionate and dissuasive sanctions and respecting due processes.

The present Anti-Fraud Strategy (the 'Strategy') builds on the methodology and guidance proposed by the Anti-Fraud Office of the Commission and **sets out the Agency's commitment** to achieve this overall objective to protect the financial interests of the European Union and its reputation.

The Anti-Fraud Strategy aims to **provide a framework addressing the issue of fraud at the Agency for the next years**. It defines the level of fraud-proofing which the Governing Board of the Agency plans to achieve, sets the relevant objectives and establishes the indicators that will allow a clear and objective assessment of the progress achieved.

The present Strategy **shall serve as a management tool for the Agency to ensure progress and transparency as regards the protection of the EU financial interests, compliance with EU ethical values and therefore the protection of the EU reputation**.

The Strategy is based on a risk assessment of EU-OSHA exposure to fraud risks.

The Strategy will be subject to regular reviews and updates in the course of its

implementation, if necessary, in order to keep pace with the developments in the legal and financial framework. An assessment shall be carried out at the end of the implementation period.

The Strategy addresses a limited number of key operational objectives.

The Strategy is in line with the priorities set by the Commission under the Common Approach on EU decentralised agencies, especially:

- Ensuring proper handling of the conflict of interests issue,
- Developing anti-fraud activities especially through prevention, detection, awareness raising and closer cooperation with OLAF.

2 Concepts and key terms

2.1 What is Fraud?

The concept of fraud-encompasses not only acts or omissions that infringe the EU financial interests but also misconduct that may not have a direct impact on the EU financial interests. In principle, fraud requires two elements to occur simultaneously:

- Breach of a rule, and
- Intention to gain undue advantage (*whether financial or not and for oneself or others*) from the breach of such rule.

Fraud may be committed by external stakeholders or partners, such as contractors, candidates, but may also be committed by EU-OSHA staff.

Fraud can involve a reputational risk and, therefore, instances of fraud may be considered as critical risks even where the financial impact is low. It also covers misbehaviour that may or may not have a direct impact on the EU's financial interests, such as some cases of forgery (in CVs for example), money laundering, concealment or destruction of material facts, or breaches of IT systems. Conflicts of interests that have intentionally not been declared, favouritism and collusion also belong to the category of fraud.

Fraud covers a range of irregularities and illegal acts characterized by deception or misrepresentation, damaging interests of the EU.

Fraud differs from 'irregularity', which is an act which does not comply with EU rules and which has a potentially negative impact on EU financial interests, but which may be the result of genuine errors committed by beneficiaries claiming funds or by the authorities responsible for making payments.

Basically, fraud affects the Agency's financial interests and/or has a negative impact on the European Union as a whole and/or the Agency's reputation.

The Strategy is based on the principles of ethics and integrity, transparency, fraud prevention, effective investigation capacity, sanctions and good cooperation between internal and external actors. For the purpose of the Strategy, detection of fraud means the detection of facts or highly suspicious circumstances that suggest that fraud may be taking place.

2.2 The characteristics of the risks associated with Fraud

In an environment where a risk management policy is well designed and implemented, the risks

associated with fraud are different from other risks as they will typically have a **low likelihood** of occurrence (the estimated probability that the risk will materialise) but a **large impact** if they do (potential consequence should the risk materialise). Impact does not limit to the financial dimension but it also takes into account any damage to the reputation of the Agency.

3 The EU-OSHA's operational environment

The mission of the European Agency for Safety and Health at Work, as defined in Council Regulation (EC) No 2062/94 of 18 July 1994, shall be to provide the EU bodies, the Member States, the social partners and those involved in the field with the technical, scientific and economic information of use in the field of safety and health at work.

The Agency currently has 67 statutory staff members and an annual budget for 2018 of € 15,485,700, primarily financed by the EU Budget. The Agency's budget is implemented through public procurements and/or direct payments. The Agency does not manage grants.

The Agency's internal structure comprises The Office of the Director and four units; Resource and Service Centre, Communication and Promotion Unit, Prevention and Research Unit and Network Secretariat. The Director of the Agency reports to the Governing Board and Bureau.

EU-OSHA is audited annually by the IAS, ECA and external Auditors. Auditors are trained to detect the kind of irregularities that indicate fraud. The results of ex-post controls are duly incorporated into the control system (red-flags, anomalies analyses etc.). EU-OSHA reports on Internal Control and Anti-Fraud in its Annual Activity Report.

4 The EU-OSHA's risk environment and existing Anti-Fraud measures

In order to ensure a proactive approach towards active fraud risk management, rather than implementing reactive measures and create an environment that discourages any fraudulent behaviour, the Agency has already introduced a number of tools and control systems to create an Agency environment that discourages any fraudulent behaviour. Some key measures include:

4.1 Annual Risk Assessment

A thorough risk assessment exercise is conducted on an annual basis as part of the Annual Work Programme drafting process. Risk assessment is performed in line with applicable provisions and guidelines of the European Commission and aims to ensure improved performance, compliance with the relevant rules and regulations, reliability of information and safeguarding assets and information.

To that end, any identified significant risks are clearly documented in the Agency's Risk Register, addressed in a timely manner via an action plan. An account of the Risk Register implementation is provided in the Annual Activity Report.

4.2 Management of Conflict of Interest

The Staff Regulations, and specifically Article 11 (2), provide that officials, temporary agents, contract agents and special advisors shall not accept any favor, gift or payment from sources outside of the institution without the permission of the Appointing Authority. The Agency gives a high priority to putting organisational values into practice. To this end the Agency expects its staff at all moments to act objectively and impartially in the public interest. The rules cover the requirement to notify cases where staff have duties concerning matters in which they have a personal interest that could impair their impartiality.

The Agency's Policy on Management of Conflict of Interest and related procedures adopted by the Governing Board in November 2014 further contributes to better prevention of conflict of interest at the Agency and ensures transparency and impartiality in the decision-making process.

4.3 Policy and procedure for management of sensitive functions

Sensitive functions imply the risk that the jobholders deliberately use their decision-making power or influence with a view to gain personal advantage (financial or non-financial). Such behaviour would have a significant negative impact on the Agency and is therefore subject to careful management, with the aim to reduce or control to an acceptable level the risk of misuse of powers.

With this objective in mind, the Agency has adopted the Internal Control Standard n. 7 "Operational structure" with the overall purpose to define sensitive functions and introduce relevant mitigating controls in order to prevent irregularities, fraud and corruption. The decision ensures that the Agency's sensitive functions are clearly defined, recorded and kept up to date and that the risks, associated with these functions, are assessed and managed through mitigating measures and specific controls.

4.4 Ethics and Integrity

The development of an anti-fraud culture at the Agency is considered of great importance. Ethics and integrity are key principles in the EU institutions and bodies. The Agency commits to ensuring that these principles are properly applied.

Training on Ethics and integrity is part of the Agency's Learning and Development Framework. It focuses on enhancing awareness about professional ethics and contributes to a better understanding of: the main staff conduct principles and rules/code of good administrative behaviour; main staff obligations; conflict of interest; reporting of frauds and disciplinary matters; prevention of wrongdoings; protection of staff in working relationships and delivery of work; recognising and minimising risk situations.

4.5 Internal Control

The Agency applies the Internal Control Policy promoted by the Commission, especially through the Internal Control Standards up to 2018 and from 2019 the Internal Control Framework. The prevention and detection of fraud is one of the objectives of internal control and it is a responsibility of every staff member. Staff members have the obligation to respect all relevant provisions laid down in the Agency's Financial Regulation, the Staff Regulations and the Condition of Employment of Other Servants.

Internal Control also monitors and reports on the Implementation review of the EU-OSHA Action Plan and prepares the assessment of the Anti-Fraud Strategy for Management Approval prior to submission to the Board.

4.6 Other measures

Additional measures, both of preventive and detective nature, have been introduced in order to support effective risk management (including the risk of fraud):

- **Preventive** – include segregation of duties, management supervision, regular meetings and monitoring tools (financial and non-financial), awareness raising actions on general conduct and other measures.

- **Detective** – the various checks and verifications performed to detect any related issues

5 The EU-OSHA anti-fraud strategy

5.1 Fraud risk assessment

As part of the development of the present Anti-Fraud Strategy, the Agency carried out a fraud risk assessment in order to identify and prioritise fraud risk areas, improve controls and propose specific actions to address the potential risks. The fraud risk assessment formed an integral part of the Anti-Fraud Assessment and Implementation Review 2015-2018 and its Action Plan.

Identification of fraud focused not only on activities implemented by the Agency through its staff, but also when these are performed by:

- Members of the Governing Board;
- EU-OSHA contractors;
- Trainees, SNEs, candidates to a post.

The risk assessment addresses the impact and likelihood dimensions as per OLAF's methodology and takes into account the reports from the Court of Auditors, the European Ombudsman and the Internal Audit Service.

Having regard to the Agency's operational context, the Agency concluded that it would benefit from strengthening the existing measures and establishing new specific ones where needed in particular in the areas of:

- Recruitment;
- Procurement;
- Reimbursement of missions.

Internally, the Agency faces the risks of acts and/or omissions by staff members in relation to their rights and obligations whereas externally the risks address acts and/or omissions by the contractors in the procurement and/or contract implementation phase.

The Fraud risk assessment and review 2015-2018 has been completed and a new Action Plan is proposed to specifically address - amongst others - the three areas identified above.

5.2 EU-OSHA's objectives and Action Plan to tackle the potential identified risks

The objectives below have been defined taking into account the risk assessment and the existing measures (see section 4).

- **The main objectives for the period 2019-2021 include:**
 - Development of the anti-fraud culture in the organisation.
 - Enhancement of existing internal procedures for the purpose of fraud prevention and improving fraud detection techniques, in particular in procurement and HR areas.
 - Strengthening of internal procedures for reporting and handling potential fraud cases and their outcomes.

- **The action plan for the period 2019-2021** designed to implement the Agency's Anti-Fraud Strategy is attached in the Annex.

The actions cover all the stages of the anti-fraud cycle: prevention, detection, investigation and corrective measures. Note that EU-OSHA's Action Plan is a live document and progress on actions will be tracked on a quarterly basis and reviewed annually.

6 Roles and responsibilities

In the framework of the strategy, the **Director**, and responsible staff have the following responsibilities:

- Protect the EU's financial interest and the reputation of EU-OSHA.
- Prepare the Anti-Fraud Strategy.
- Take preventive measures against fraud, corruption and any other illegal activities.
- Carry out effective checks.
- Recover amounts wrongly paid.
- Impose effective, proportional and dissuasive administrative and financial penalties where appropriate.
- Revise and monitor – through the Management Group and the Bureau – the action plan and its implementation on a regular basis and inform the Governing Board as appropriate.
- Comply with the relevant regulations, policies and procedures.
- Report any supposed infringement they are aware of in accordance with the relevant provisions and procedures that shall be established in the context of this strategy.

The **Governing Board** has the responsibility to:

- Adopt the Anti-Fraud Strategy.
- Revise and monitor the action plan and its implementation on a regular basis.
- Comply with the relevant policies and procedures under the Anti-Fraud Strategy.

7 Regulatory framework

- EU-OSHA Internal Control Standard n.2 "Ethical and Organisational Values";
- Governing Board decision No ADM/99/2 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity liable to give rise to administrative or criminal proceedings and subsequent amendments.
- Commission Anti-Fraud Strategy of 24.11.2011 (COM(2011)376)
- Common Approach on EU decentralised Agencies (July 2012) and Roadmap (in particular actions n° 60 to 68)
- OLAF Note to the attention of the executive directors of the EU decentralised Agencies of 25.11.2013
- OLAF methodology and guidance for Anti-Fraud Strategies for EU decentralised Agencies (Ares(2013)3560341)

- Staff Regulations of Officials of the European Communities and Conditions of Employment of Other Servants of the European Communities;
- Agency Financial Regulation adopted in February 2014, this will be updated in 2019, the AFS will be updated accordingly
- EU-OSHA Conflict of interest policy and procedure adopted by the Governing Board in November 2014