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## EU-OSHA ANTI-FRAUD STRATEGY 2022-2026

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## 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 (updated by the Communication from the Commission dated 29 April 2019). 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 (articles 60 to 68) require a set of anti-fraud measures to be put in place in EU decentralised agencies.

The European Parliament and the European Court of Auditors have repeatedly called for better protection of the EU financial interests against fraud and irregularities.

Pursuant to Article 25 of the Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), the Agency shall combat fraud. An anti-fraud strategy shall be adopted by the Management Board in line with point (f) of Article 5(1) of the Regulation. The EU-OSHA Financial Regulation also reflects the importance of anti-fraud measures.

OLAF developed a methodology and guidance for AFS for EU decentralised agencies which was adopted in November 2013 (Ares (2013)3560341). The EU-OSHA 2019-2021 Anti-Fraud Strategy is based on this methodology.

The EU-OSHA Anti-Fraud Strategy 2022-2026 (the 'Strategy') is based on the 2019-2021 EU-OSHA Anti-Fraud Strategy and consolidates and further develops the objectives set out by the previous strategy. Starting in 2019, EU-OSHA has implemented several tools to improve the prevention and detection of fraud. In particular, EU-OSHA carries out an annual risk assessment exercise and quarterly reviews that include fraud risks at the Agency. The present strategy derives from this knowledge and aims at consolidating and further refining the anti-fraud activities at the Agency in a way which is proportionate to the fraud risks, having due regard to the costs and benefits of the measures to be implemented.

### 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 Strategy **sets out the Agency's commitment** to achieve the 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 time period from 2022-2026**. It explains the Agency's intentions, 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 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.

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.

The Strategy will be assessed and updated in the course of its implementation, as necessary. Based on the Strategy, EU-OSHA will develop an annual anti-fraud action plan that is reviewed and updated quarterly. EU-OSHA reports annually to the Management Board on the implementation of the Strategy and the anti-fraud action plan.

## 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, breaches of confidentiality, 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.

**In summary, 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.**

### 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) considering the controls in place 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 objective of the European Agency for Safety and Health at Work (EU-OSHA), as defined in Regulation (EU) No 2019/126 of the European Parliament and of the Council of 16 January 2019, shall be to provide the Union institutions and bodies, the Member States, the social partners and other actors involved in the field of safety and health at work with technical, scientific and economic information and qualified expertise in that field in order to improve the working environment as regards the protection of the safety and health of workers.

The Agency currently has 65 statutory staff members and an annual budget for 2022 of €16,405,100 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 Executive Director and four units: Communication and Promotion Unit, Prevention and Research Unit, Network Secretariat, and Resource and Service Centre. The Executive Director is responsible for the management of EU-OSHA in accordance with the strategic direction set by the Management Board and is accountable to the Management Board. The Executive Director shall report to the European Parliament where invited to do so.

EU-OSHA is audited annually by the Internal Audit Service (IAS), the European Court of Auditors (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 Consolidated Annual Activity Report.

## **4 The EU-OSHA's risk environment and existing anti-fraud measures**

In order to ensure a proactive approach towards fraud risk management the Agency has introduced a number of tools and control systems to create an Agency environment that discourages any fraudulent behaviour. This anti-fraud framework includes the following key measures:

### **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. The risk assessment is performed in line with applicable provisions and guidelines of the European Commission and in coordination with the cluster group of related European Agencies. The risk assessment aims to ensure improved performance, compliance with the relevant rules and regulations, reliability of information and safeguarding assets and information.

To that end, any significant risks are identified and documented in the annual Agency's Corporate Risk Register. The risks included in the Corporate Risk Register are mitigated via an annual action plan, which is updated quarterly.

### **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 favour, 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 prevention and management of conflicts of interests, stemming from 2014, was revised and adopted by the Management Board in its current version in January 2020. It covers Management Board members, alternate members and observers, experts whose expertise the Agency avails itself as well as staff not employed by the Agency.

This further contributes to better prevention of conflict of interest at the Agency and ensures transparency and integrity in the decision-making process. In addition, on 17 December 2021, the Agency adopted the EU-OSHA Guidelines on Gifts and Hospitality, which foresees procedures and rules concerning the staff members' obligations with respect to gifts and hospitality offers.

### **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 it 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 Procedure for the Identification and Management of Sensitive Functions, dated 15 December 2020 and an Inventory of EU-OSHA Sensitive Functions, dated 4 November 2021, including a list of potential EU-OSHA Sensitive Functions and a related Risk Assessment. These decisions ensure 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.

On 20 November 2018, the Agency adopted the EU-OSHA Guidelines on Whistleblowing foreseeing protection, guidance and support for whistle-blowers.

#### 4.5 Internal Control

The Agency applies the Internal Control Policy promoted by the Commission. On 24 January 2019, EU-OSHA adopted its new Internal Control Framework. On 18 July 2019, based on the Internal Control Framework, the Agency adopted Key Performance Indicators related to the Internal Control Framework of EU-OSHA consisting of Internal Control Components and Internal Control Principles that put emphasis on combatting of fraud (principles 1, 8, and 9). The prevention and detection of fraud is one of the main objectives of internal control and 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 Conditions of Employment of Other Servants.

Internal Control also monitors and reports on the implementation of the action plan (regarding) the Corporate Risk Register) and the anti-fraud action plan.

#### 4.6 Other measures

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

- **Preventive measures:** These include segregation of duties, management supervision, regular meetings and monitoring tools (financial and non-financial), awareness raising actions on general conduct and other measures.
- **Auditing measures:** Various checks and verifications are performed to detect any related issues. These consist of regular audits by the European Court of Auditors and the Internal Audit Service. In addition, there is an annual audit of the accounts.

## 5 Scope and objectives of the 2022-2026 Anti-Fraud Strategy

### 5.1 Scope

The EU-OSHA Anti-Fraud Strategy covers all activities implemented by the Agency through its representatives and staff.

The Strategy also covers activities when these are performed by:

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

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.

## 5.2 Objectives

The following objectives take into account the fact that several anti-fraud measures have been established in the last years. This has created an anti-fraud environment at the Agency in which fraud prevention and detection appear to function well (see section 4).

Therefore, the consolidation of the existing anti-fraud framework and measures shall be the main objective for the time-period from 2022 to 2026.

**The main objectives for the period 2022-2026** include:

- Consolidation of the existing anti-fraud framework and measures.
- Continuous development and strengthening of the anti-fraud culture in the organisation.
- Enhancement of existing internal procedures for the purpose of fraud prevention and improving fraud detection techniques across all areas of the Agency's activities.
- Further strengthening of internal procedures for reporting and handling potential fraud cases and their outcomes.

The actions cover all the stages of the anti-fraud cycle: prevention, detection, investigation and corrective measures.

## 6 Roles and responsibilities

Under the strategy, the **Executive Director** has the following obligations and responsibilities:

- Protect the EU's financial interest and the reputation of EU-OSHA.
- Prepare, present to the Management Board for approval, and implement 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 the anti-fraud action plan and its implementation on a regular basis and inform the Management Board as appropriate.
- Comply with the relevant regulations, policies and procedures insofar as they contain specific obligations for the Executive Director.

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.

All **EU-OSHA staff** has the obligation and responsibility to:

- Protect the EU's financial interest and the reputation of EU-OSHA.
- Comply with the relevant regulations, policies and procedures insofar as they contain specific obligations for members of staff.



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

- Adopt the Anti-Fraud Strategy.
- Take note of its implementation via the monitoring reports provided by the Executive Director.

The **Members of the Management Board** have the obligation and responsibility to:

- Comply with the relevant regulations, policies and procedures insofar as they contain specific obligations for the members of the Management Board.

## 7 Regulatory framework

- Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA).
- Financial Regulation of the European Agency for Safety and Health at Work dated 27 September 2019.
- Commission Anti-Fraud Strategy of 24.11.2011 (COM(2011)376), updated by the Communication from the Commission dated 29 April 2019.
- Common Approach on EU decentralised Agencies (July 2012) and Roadmap (in particular actions n° 60 to 68).
- 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.
- EU-OSHA Internal Control Framework adopted in January 2019 and Internal Control Framework Key Performance Indicators adopted in July 2019.
- 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.
- EU-OSHA Financial Regulation adopted in September 2019.
- EU-OSHA Conflict of interest policy and procedure adopted in January 2020.
- EU-OSHA Guidelines on Whistleblowing adopted in November 2018.