

ECHA Anti-Fraud Strategy

1. Background

Definition

Fraud is a deliberate act of deception intended for personal gain or to cause a loss to another party.

An irregularity is an act which doesn't 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 both by beneficiaries claiming funds and by the authorities responsible for making payments. If an irregularity is committed deliberately, however, it's fraud.

General context

The EU budget is public money that must be used only for implementing the policies which the EU legislature has approved. Fraud involving EU funds has a particularly negative impact on the reputation of the EU institutions and the implementation of the EU policies.

The Commission has developed a Common Approach on EU decentralised agencies that provides for a set of anti-fraud measures to be put in place in the agencies. To assist the agencies in this exercise the European Anti-Fraud Office (OLAF) has developed a Methodology and guidance document for anti-fraud strategies for EU decentralised agencies. ECHA's Anti-Fraud Strategy as described below follows the methodology and templates proposed by OLAF.

Agency context

ECHA is the driving force among regulatory authorities in implementing the EU's groundbreaking chemicals legislation for the benefit of human health and the environment as well as for innovation and competitiveness. ECHA helps companies to comply with the legislation, advances the safe use of chemicals, provides information on chemicals and addresses chemicals of concern.

The Agency is partly fee-financed and foresaw an expenditure budget of EUR 112.7 million in 2022. The budget is in majority implemented through administrative expenditure and the procurement of services.

The Anti-Fraud Strategy presented in this document will be updated during the course of its implementation if necessary.

2. Fraud risk assessment

In line with OLAF's Methodology and guidance for anti-fraud strategies for EU decentralised agencies, ECHA has conducted a fraud risk assessment of its main activities based on the estimated likelihood and possible impact of fraud. The assessment was first performed in October 2014 and since then the adequacy of the controls in place have been evaluated annually as part of the internal control assessment. Overall - taking into account existing controls - ECHA believes that the risk of significant undetected fraud is low. As ECHA is not an agency that distributes large financial resources directly via EU funds or grants, its residual fraud risks lie elsewhere and are more indirect.

As a result of this fraud risk assessment the following main fraud risks were identified within ECHA:

1. Deliberate leaking of information;
 2. Serious irregularities related to favouritism and conflicts of interest;
 3. Procurement and contract management related fraud.
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1. ECHA has over the years built up the world's largest regulatory database on chemicals. A large part of that data is made up of confidential business information (with an obvious financial value attached to it). A large amount of ECHA staff members, as well as external partners (Commission and Member States) have access to such databases. There is also a potential risk for unauthorised access and leakages via external access by contractors.
 2. ECHA has rather wide regulatory powers and can take decisions that have serious consequences for the regulated industries. Thereby, ECHA relies heavily on external experts (mainly originating from Member State authorities) for its decision-making processes. In certain fields the expertise is concentrated among a small group of experts. Certain regulatory decisions are also taken fully by ECHA staff. Private interests held by such persons or targeted favouritism may endanger the independent decision-making.
 3. ECHA has put in place highly automated processes and is therefore highly dependent on IT development. Such IT development and maintenance takes place mainly via external contractors and the procurement budget is therefore rather large. The contract management process is decentralised. Strict controls are in place, but the risk can never be reduced to zero.

3. Roles and responsibilities

The roles and responsibilities to ensure the effective functioning of ECHA's internal control approach are defined in the Handbook for Internal Control at ECHA (HAN-0029). More specifically for Fraud prevention the roles and responsibilities are as follows:

The Management Board

The Management Board is responsible for the adoption of this Anti-Fraud Strategy.

Executive Director

The Executive Director is responsible for the preparation and presentation of the Anti-Fraud Strategy to the Management Board for adoption.

The Executive Director, applying the 'tone at the top' approach, promotes the Anti-Fraud Strategy and culture across the Agency, by setting out its anti-fraud objectives and putting in place effective arrangements for combating fraud. The Executive Director is responsible for reporting on the implementation of the strategy to the Management Board and the Institutions, as part of the annual reporting.

Directors

Directors are responsible for promoting the Anti-Fraud Strategy and culture within their Directorates. To do so, they check staff awareness and ensure that all suspected or reported cases of potential fraud are immediately reported. In addition, they cooperate with all other functions involved in the implementation of the Anti-Fraud Strategy, including through the use of ex ante and ex post controls where required.

All managers

The primary responsibility – 'first line controls' - for the prevention and detection of fraud rests with the managers throughout the organisation. They have to manage the risk of fraud and are supported and receive training so that this task is fulfilled effectively.

Head of the Governance, Strategy and Relations Unit

The Head of the Governance, Strategy and Relations (GSR) Unit is responsible for setting and managing the tasks related to the anti-fraud activities in the Agency. The GSR coordinates the implementation of the Anti-Fraud Strategy and the follow-up actions, it reports regularly to the Executive Director on the implementation and acts as a contact point for OLAF for strategy-related issues.

Director of Resources

The Director of Resources is responsible for the conduct of administrative inquiries and disciplinary proceedings at ECHA and the central contact point for OLAF investigations.

Head of the Human Resources Unit

The Head of the Human Resources Unit contributes to promoting staff awareness about the anti-fraud principles and strategy, including ethical and organisational values through training and guidance.

Head of the Finance Unit

The Head of the Finance Unit is responsible for ensuring that financial systems incorporate effective measures to reduce the risk of fraud and detect potential fraud cases at an early stage. Responsible for ex-ante and ex-post financial controls, as well as fixed asset management.

Head of the Legal Affairs Unit

The Head of the Legal Affairs Unit is responsible for identifying and preventing the risks of breach of legal provisions and ethical behaviour rules which may entail liabilities or reputational loss for the Agency.

Staff members

All staff members must comply with the Agency's anti-fraud principles and strategy. They should forward any reasonable concerns with regard to fraud to their reporting officer and/or senior management, in accordance with the existing guidelines, for example, on internal whistleblowing.

External experts, partners, suppliers, contractors and consultants

All external experts, partners, suppliers, contractors and consultants must comply with the Agency's anti-fraud principles and strategy.

4. Other means and resources

The Agency has put an extensive set of controls in place and has at its disposal the following means and resources which are engaged in tackling fraud:

Human resources:

	Units/ functions	Tasks related to anti-fraud issues
1	European Court of Auditors (ECA)	The ECA acts as the Agency's external auditor.
2	Internal Audit Service (IAS)	The IAS acts as the Agency's internal auditor.
3	Internal Audit Capability (IAC)	Independent audits, which may include fraud assessments.
4	Quality and Internal Control Officer	Internal Control and Management Review.
5	Process owners	Person or role responsible for the effective and efficient functioning of the process. He/she has the necessary authority to take action or make decisions with an impact on the process performance (PRO-0008)
6	Security Officer	Responsible for policy and implementation of physical security measures. Provides technical assistance for OLAF investigations.
7	Information Security Officer	Responsible for policy and implementation of information security measures.
8	Director of Information Systems	Ultimately responsible for the IT security management systems
9	ICT Security Officer	Responsible for the IT risk assessment/risk management and related IT security measures.
10	Conflict of Interest Advisory Committee	Advisory body on matters related to (potential) conflicts of interest of individuals staffing the Agency or members of its bodies
11	Accounting Officer	Independent Accountant of the Agency.
12	Fixed Assets Retirement Committee (FARC)	Gives opinion on the retirement of fixed assets above 5000 EUR.

Specific tools, procedures, networks:

	Tools/ procedures/ network	Units involved
1	Early Warning System (EWS)	EWS is an internal alert tool, containing restricted information concerning third parties likely to represent a threat to the EU financial interests in the form of warnings.
2	ABAC Assets Database	The ABAC Assets Database is used for the inventory and management of fixed assets
3	Auditnet for Agencies	E0
4	Policy and Procedure on Fixed Asset Management (POL-0018 and PRO-0048)	R1, R3, Dir. I
5	Handbook for Internal Control at ECHA (HAN-0029)	E1
6	Inventory of fixed and IT assets;	R1, R3, Dir. I
7	IPR inventory and procedure for IPR management (WIN-0151)	E2
8	Procedure on SME verification (WIN-0069 and WIN-0132)	A3
9	Code of Good Administrative Behaviour (MB/11/2008)	E2, R2
10	Code of Conduct of the Management Board (MB/52/2019 final)	E1
11	General principles and guidance for Committee members (ED/08/2013)	E1
12	Code of Conduct of the alternate and additional members of the Board of Appeal (BoA/01/2018)	RBoA
13	Code of conduct for observers at ECHA meetings (ED-0035)	E1
14	Procedure for Prevention and Management of CoI (PRO-0067) and several implementing rules (e.g. WIN-0105)	E1, R2, E2
15	Annual (FOR-0039) and specific Declarations of Interest (FOR-0051 and FOR-00052)	E1, R2
16	Specific declaration of confidentiality for panel members (FOR-0053);	R2
17	Guidance on gifts and hospitality (ED/159/2012)	R2

18	COM decision C(2018)4048 on outside activities and assignments (adopted with MB decision 23/2018 to apply by analogy)	R2
19	Post-employment guidance for ECHA staff (ED/72/2018)	R2
20	Information Management and Security Policy (POL-0007)	Dir. I
21	Unified declarations and standard security requirements for MS and COM access to ECHA IT systems (MB decision 59/2019);	Dir. I
22	Use of ICT facilities policy (POL-0011)	Dir. I
23	ICT Security Handbook (HAN-0012)	Dir. I
24	Procedure on Access to ECHA information (PRO-0085)	E1
25	IVA (Initiate, Verify, Approve) and/or four-eye principle applied in all administrative and operational processes across the Agency	All units
26	Procedures for Procurement of External Services and Supplies (PRO-0039) and for Contract Management (PRO-0040) and Handbooks on Preparation of Specifications (HAN-0016) and Evaluation of Tenders (HAN-0017)	All units
27	Implementing rules on the conduct of administrative inquiries and disciplinary proceeding (MB/23/2022)	R0
28	Decision concerning terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests (MB/30/2009 final)	All staff members
29	Implementing rules laying down guidelines on whistleblowing (MB/35/2018)	All staff members

5. Objectives and actions

The ECHA Anti-Fraud Strategy is intended to provide a framework for addressing the issue of fraud in the Agency. Based on the results of the risk-assessment (chapter 2) and available resources (chapters 3-4), the general objectives have been adapted to the specific context of ECHA.

The present Anti-Fraud Strategy has been developed around the following principles:

- Zero tolerance for fraud;
- Efficiency: fight against fraud as an integral part of the Agency's internal control system;
- Transparency: on the use of EU funds;
- Effectiveness: in achieving its strategic objectives and in communicating them, both internally and externally;
- Proportionality: anti-fraud actions shall correspond to the fraud risk level.

In principle, the Anti-Fraud Strategy encompasses all stages of the anti-fraud cycle, namely prevention, detection, investigation and sanctions/recovery. However, because the number of suspected fraud cases reported is extremely low and the procedures to deal with them (investigation, sanctions/recovery) are considered satisfactory, ECHA's strategy concentrates on the two first two stages (prevention and detection). This assessment may be revised should the number of fraud cases increase.

5.1. Objective 1: Maintain and further develop anti-fraud culture

ECHA's Anti-Fraud Strategy gives a strong priority to awareness raising and training of staff. The desired outcome would be that a clear anti-fraud culture would be maintained and further developed in the Agency, in which staff members have a clear understanding of the types of behaviour that are unacceptable, of the channels where such fraudulent activities can be reported and of the procedures in place to detect, investigate and counteract fraud.

Action plan to achieve objective 1 (as included in the Agency's Programming Document 2023-2026, Annex X.b):

- Strengthen staff's awareness of internal reporting and whistleblowing procedures.
- Induction and regular reminders/training on ethics and conflict of interest for both internal staff and external experts, including on 'revolving doors'.
- Regular reminders/training on information security.
- Regular reminders/training on procurement and contract management.
- Administrative enquiries where required or appropriate

Indicator: Number of OLAF investigations. Information material made available and number of staff members trained.

5.2. Objective 2: Regular review of key policies and procedures for internal control

The Agency has robust procedures in place to safeguard the security of the information entrusted to it, the independence of its scientific output and the legality of its procurement and contract management processes (see 3 main fraud risks identified). A regular review of all procedures in place in these three key areas should ensure continued high standards of implementation. ECHA's Integrated Management System (ISO 9001 certified) foresees such regular reviews as well as a strive for continuous improvement.

Action plan to achieve objective 2 (as included in the Agency's Programming Document 2023-2026, Annex X.b):

- Conduct of an annual risk assessment exercise.
- Regular review of policies and procedures with regard to IT governance and information management and security.
- Regular review of the policies and procedures in the field of ethics and the prevention of conflicts of interest.
- Regular review of the policies and procedures in the field of procurement and contract management, as well as SME verification and selection and recruitment.
- Assess the adequacy and effectiveness of the associated systems of internal controls, also through monitoring and audit activities.

Indicator: Up-to-date policies and procedures (review period maximum 1-2 years) including robust controls in place in all key areas.

6. Review and monitoring

The implementation of the Agency's Anti-Fraud Strategy, policy and procedures will be subject to periodic review on the basis of an evaluation of the impact of the strategy, measured using some key performance indicators (among which, for example, the number of cases notified to OLAF, the number of notified cases dismissed by OLAF, the number of internal reporting about suspicious behaviours received).

The results of the Anti-Fraud Strategy will be reported in the Annual Activity Report.

The Executive Director will ensure that the Agency's approach to managing the risk of fraud is kept up to date with developments in best practices and with legislative requirements. The Anti-Fraud Strategy will be reviewed at least every 4 years. The next review will take place in December 2026 at the latest. As the action plan linked to the Anti-Fraud Strategy forms part of the Agency's Programming Document (see Annex X.b of ECHA's Programming Document 2023-2026), there will also be an annual opportunity to review and update the action plan as needed.