

ECHA Anti-Fraud Strategy and Action Plan

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 handled an expenditure budget of EUR 107.7 million in 2013. The budget is in majority implemented through administrative expenditure and the procurement of services. For 2013 the slice of the budget used for the procurement of services and goods amounted to approximately 26 %.

While existing controls include various anti-fraud measures, there is currently no explicit anti-fraud strategy in place. The anti-fraud strategy presented in this document covers the period 2015-2016 and will be updated in the course of its implementation if necessary or after its assessment at the end of the implementation period.

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 performed in October 2014. 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.

The risk assessment was undertaken on the basis of interviews with key personnel (IAC, Director of IT, Head of Legal, Head of the Executive Office, Team Leader Procurement, HR Team Leader for Regulations and Policy of HR, IT security engineer, etc.), a thorough analysis of the Anti-Fraud Strategies of ECHA's partner DGs in the Commission, Court and OLAF cases in which ECHA was a party, European Ombudsman recommendations and the IAC, IAS and ECA audit reports of recent years. Finally the senior management of the Agency reviewed and endorsed the analysis.

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 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 from 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 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. Means and resources

The Agency has already 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	Executive Office	Central contact point for OLAF investigations and coordination of Anti-Fraud Strategy.
7	Security Manager	Responsible for policy and implementation of physical security measures. Provides technical assistance for OLAF investigations.
8	Information Security Officer	Responsible for policy and implementation of information security measures.
9	Director of Information Systems	Ultimately responsible for the IT security management systems
10	IT Security Engineer	Responsible for the IT risk assessment/risk management and related IT security measures.
11	Legal Affairs Unit	Focal point for legal advice, complaints, infringements and IPR management.
12	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
13	Director of Resources	Responsible for the conduct of administrative inquiries and disciplinary proceedings at ECHA
14	Human Resources Unit	Support regarding ethical and organisational values through training and guidance.
15	Finance Unit	Ex-ante and ex-post financial controls. Include the procurement team and SME verification team. Fixed Asset management.
16	Accounting Officer	Independent Accountant of the Agency.
17	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	EDEO
4	Policy and Procedure on Fixed Asset Management (POL-0018 and PRO-0048)	R1, R3, IO
5	Inventory of fixed and IT assets;	R1, R3, IO
6	IPR inventory and procedure for IPR management (WIN-0151)	B2
7	Procedure on SME verification (WIN-0069 and WIN-0132)	R1
8	Code of Good Administrative Behaviour (MB/11/2008)	ExO
9	Procedure for Prevention and Management of CoI (PRO-0067) and several implementing rules (e.g. WIN-0105)	ExO, R2, B2
10	Annual (FOR-0039) and specific Declarations of Interest (FOR-0051 and FOR-00052)	ExO, R2
11	Specific declaration of confidentiality for panel members (FOR-0053);	R2
12	Guidance on gifts and hospitality (ED/159/2012)	R2
13	COM decision on outside activities and assignments applied by analogy	R2
14	Information Security Policy (POL-0006)	ExO
15	Unified declarations and standard security requirements for MS and COM access to ECHA IT systems (MB decision 09/2013);	ExO
16	Use of ICT facilities policy (POL-0011)	ExO
17	Procedure on IT governance, bodies, roles and functions (PRO-0026)	Dir. I
18	Procedure on ECHA ICT Security Management System (PRO-0065)	Dir. I

19	ICT Security Handbook	Dir. I
20	IVA (Initiate, Verify, Approve) and/or four-eye principle applied in all administrative and operational processes across the Agency	All units
21	Procedures for Procurement of External Services and Supplies (PRO-0039.02) and for Contract Management (PRO-0040.02) and Handbooks on Preparation of Specifications (HAN-0016.01) and Evaluation of Tenders (HAN-0017.01)	All units
22	Implementing rules on the conduct of administrative inquiries and disciplinary proceeding (MB/12/2012 D final)	RO
23	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

4. Strategy

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 (chapter 3), the general objectives have been adapted to the specific context of ECHA.

In line with OLAF's guidance, the strategy/action plan takes into account the principle of proportionality, according to which the achievement of the strategy should not require disproportionate and excessively expensive inputs and should not jeopardise the operational and current activities of the Agency. The main aim of the ECHA Anti-Fraud Strategy should therefore be to build up a widespread anti-fraud culture across the Agency and its staff.

In principle, the anti-fraud strategy encompasses all stages of the anti-fraud cycle, namely prevention, detection, investigation and sanctions/recovery. However, for the period 2015-2016, ECHA's strategy concentrates on the two first two stages (prevention and detection). This is because the number of suspected fraud cases reported is extremely low and the procedures to deal with them (investigation, sanctions/recovery) are considered satisfactory. This assessment may have to be revised should the number of fraud cases increase.

ECHA's anti-fraud objectives and priority actions are documented in the action plan below. The achievement of the objectives is measured through a set of indicators. The results of the anti-fraud strategy will be reported in the Annual Activity Report. The strategy is valid for the period 2015-2016 and will be updated in the course of its implementation if necessary or after its assessment at the end of the implementation period.

4.1. Objective 1: Awareness and training

During the implementation of the first ECHA Anti-Fraud Strategy the priority will be put on awareness raising and training of staff. The desired outcome would be that a clear anti-fraud culture would develop 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.

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

4.2. Objective 2: Clarify roles and improve cooperation

To tackle fraud efficiently, the different roles in the process should be clear. There should be one or more easy-to-approach Ethics contact person(s) and a Unit in charge of coordinating the implementation of this Strategy and of assisting OLAF during possible investigations. The desired outcome would thus be that all staff members have a clear understanding of who to approach to get more information on the procedures in place and where to turn during possible investigations.

Indicator: Roles are clearly established and communicated to all staff.

4.3. Objective 3: Process improvement

While awareness, training and the clarification of roles are the main priorities during the first years, ECHA intends to analyse and potentially implement some additional measures to tackle some of the main risks identified, with a focus on leaking of information and contract management. The existing controls are seen as adequate, but it will be analysed if they can be further reinforced to come to an ever-robust management system.

Indicator: Analysis undertaken and additional measures implemented if considered necessary.

Action plan 2015-2016

This action plan, designed to implement the Anti-Fraud Strategy of the Agency, covers the period from 1 January 2015 till 31 December 2016. The target dates are geared to the level of priority. The actions will cover the stages of the anti-fraud cycle: prevention, detection, investigation and corrective measures.

	Priority	Unit in charge	Deadline	Indicator
<i>Operational objective 1: Awareness and training</i>				
1.1 Make anti-fraud material available on ECHANet, review information on anti-fraud in material for newcomers and in the regular staff training on ethics	Prevention	R2	31.03.2015	Material published
1.2 Organise awareness activities on ethics at regular intervals	Prevention	R2	At regular intervals throughout the year	No. of ECHANet articles published/activities undertaken
1.3 Training and awareness activities regarding ECHA's security classification	Prevention	ExO	Training at regular intervals and for specific target groups throughout the year	No. of trainings organised
1.4 Targeted training for contract managers at regular intervals (including elements of ethics and fraud prevention)	Prevention	R1	30.06.2015 and then at regular intervals	No. of trainings organised
1.5 Draw up whistleblowing guidelines for staff	Detection	R2	30.04.2015	Document adopted
<i>Operational objective 2: Clarify roles and improve cooperation</i>				
2.1 Identify unit in charge of coordinating Anti-Fraud Strategy implementation	Prevention	ED	31.01.2015	Unit identified
2.2 Identify contact person/unit in charge of assisting OLAF during and after investigations	Investigation	ED	31.01.2015	Unit identified and communicated to all staff
2.3 Identify unit in charge of awareness and training activities regarding ethics and fraud	Prevention	ED	31.01.2015	Unit identified
2.4 Establish 'Ethics/anti-fraud contact point(s)' for staff	Prevention / Detection	ED	31.03.2015	Contact point(s) identified and communicated to all staff
2.5 Establish good working relationship with OLAF	Investigation	ExO	31.12.2015	Bi-lateral meeting organised

Operational objective 3: Process improvements				
3.1 Develop procedure for investigation of (IT and physical) security incidents, including definition of roles and responsibilities and boundaries (prior to formal investigations under an administrative inquiry)	Investigation	ExO, R2, B2, Dir. I	31.12.2015	Procedure adopted
3.2 Analyse appropriateness of enhanced IT security monitoring for fraud detection	Detection / investigation	Dir. I	Analysis by 30.06.2015, and if judged necessary implementation by 31.12.2016	Documented analysis undertaken. If judged necessary, a small number of key alerts established and monitored by responsible business users
3.3 Analyse need to refer to OLAF cases where there is strong indication of a deliberate wrong company size declaration to gain significant financial advantage	Prevention / detection	R1	31.12.2015	Analysis undertaken and implemented if judged necessary.
3.4 Review controls in place in the contract management process via a risk-based approach	Prevention	ExO, R1	31.12.2015	Fraud risks analysed during efficiency project
3.5 Include Fraud Risk Assessment in the scope of the Agency's regular risk assessment exercise	Detection	ExO	30.06.2015	Fraud Risk included
3.6 Review Anti-Fraud Strategy at regular intervals	Prevention	ExO	Yearly report to MB and in AAR (first December 2015) and full review at the end of 2016	Action list updated (for yearly report) and Strategy reviewed (for full review at the end of the implementation)