DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 7 APRIL 2021

ON THE ADOPTION OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE ('EPPO') ANTI-FRAUD STRATEGY 2021-22

The College of the European Public Prosecutor's Office (EPPO),

Having regard to Council Regulation (EU) 1939/2017 of 12 October 2017[1], implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('EPPO'), hereinafter "the EPPO Regulation", and in particular Article 19.4 (g) and 114 thereof,

Having regard to Decision 002/2021 of the College of the European Public Prosecutor's Office on the Financial Rules applicable to the EPPO, hereinafter referred to as "EPPO's Financial Rules", and in particular Article 32 and Article 48(1)(a) thereof,

Having regard to Regulation (EU, Euratom) 2018/1046[2] of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, and in particular Article 74(2) hereinafter referred to as "Financial Regulation",

Having regard to the Communication on the Commission Anti-Fraud Strategy: enhanced action to protect the EU budget, adopted on 29 April 2019 by the European Commission.[3]

Whereas:

In accordance with Article 19 §4g of the EPPO regulation, "The Administrative Director shall be responsible for preparing an internal anti-fraud strategy for the EPPO and presenting it to the College for approval."

In accordance with Article 32 §1h of the EPPO's Financial Rules, "Single Programming document", an anti-fraud strategy shall be prepared.

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[1] OJ L 283, 31.10.2017, p. 1–71
[2] OJ L 193, 30.7.2018, p. 1–222
[3] C(2019) 196 final

In accordance with Article 114b of the EPPO regulation "The College, on the proposal of the European Chief Prosecutor shall adopt an anti-fraud strategy, which is proportionate to the fraud risks having regard to the cost-benefit of the measures to be implemented."

Has adopted the following decision:

Article 1

Adoption of the EPPO's anti-fraud strategy

The EPPO's anti-fraud strategy 2021-22, as set out in the Annex to this decision, is hereby adopted.

Article 2

Entry into force

This decision shall enter into force on the date of its adoption by the College.

Done at Luxembourg, on 7 April 2021.

On behalf of the College,

Laura Codruța KÖVESI
European Chief Prosecutor

ANNEX: EPPO's Anti-Fraud Strategy 2021-2022 and Action Plan

1. Background

Definition of fraud

According to article 1 of the Convention on the protection of the European Communities' financial interests:

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

- **"Irregularity"** is any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Unlike fraud, an irregularity is not intentional.

The concept of fraud encompasses both internal and external misbehaviour. It does not only cover financial fraud, but also non-financial fraud. When carrying out the fraud risk assessment, risks causing damage to the image and reputation of the EPPO should be considered as well. The reputational impact could be more important than the financial damage itself.

General Context

On 24 June 2011, the Commission adopted its new Anti-Fraud Strategy (henceforth CAFS) with the overall objective of improving the prevention and detection of fraud, and the conditions for investigations of fraud, and achieving adequate reparation and deterrence. In its preparation of the Multiannual Financial Framework (MFF) 2021 – 2027, the Commission revised its CAFS in 2019 and proposed a new strategy in an effort to strengthen its anti-fraud activities in areas such as new ways of financing or fraud that harms the budget on the revenue side.

Furthermore, the Commission has issued 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. Although the EPPO is not a decentralized agency, the EPPO's Anti-Fraud Strategy as described below is inspired by the abovementioned documents. However, some adaptations have been made given the unique status of the EPPO as an independent investigative body.

EPPO Context

Articles 19(4) (g) and 114(b) of Regulation 2017/1939 establishing the EPPO mention that the College, on the proposal of the European Chief Prosecutor, shall adopt an internal anti-fraud strategy.

The overall objective of the EPPO's Anti-Fraud Strategy is to improve prevention, detection and the conditions for investigation of fraud, and to pursue adequate deterrence and reparation. The Anti-Fraud Strategy is integrated into the broader legal framework setting the tasks of the EPPO and is necessary to ensure that the internal control systems in place adequately cover the risk of fraud.

The EPPO is responsible for the enforcement of the PIF (*Protection des Intérêts Financi*ers)[4] Directive, which harmonizes the implementation and enforcement of criminal law across 22 participating EU Member States with respect to offences against the EU budget. The directive therefore empowers the EPPO with a mandate to fight fraud that affects the financial interests of the EU. In this regard, the EPPO is entitled to conduct investigations at Member State level (or cross-Member State), as well as investigations regarding the conduct of EU staff in European Union Institutions, Bodies, Offices and Agencies.

The EPPO has a total budget of EUR 44.9 million for the year 2021. As for its expenditure, the EPPO directly manages its own expenses, both administrative and operational.

Given that the EPPO is still in its early development phase at the time of drafting its first Anti-Fraud Strategy, there is no precedent of previously assessed fraud risks.

2.   Guiding principles of EPPO's anti-fraud strategy

The main principles of the EPPO's Anti-Fraud Strategy are based on zero tolerance against fraud, proportionality towards the fraud risks, cost-benefit analysis of the fraud measures to be implemented, cost-effectiveness of controls, professional integrity of the EPPO staff, ethics, enhanced transparency, fraud prevention, effective internal and external communication on fraud and good cooperation between internal and external stakeholders and partners.

The staff, the Administrative Director, the Members of the College, the European Chief Prosecutor, the European Delegated Prosecutors as well as external contractors of the EPPO must act in the best interest of the EPPO and the EU, thereby safeguarding transparency, honesty and integrity.

The EPPO will not tolerate fraud, impropriety or dishonesty and any suspicion of a committed irregularity shall be reported immediately.

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[4] COM (2020) 363 Final « *31st Annual Report on the protection of the European Union's financial interests — Fight against fraud – 2019*".

3. Fraud risk assessment

A risk of fraud can arise, in particular, when there is a serious vulnerability in a process, a file or a document that may point to a potential fraud.

A fraud risk assessment is an essential stage of the anti-fraud strategy as it enables identifying the most important sources of potential risks. Based on this assessment, a series of objectives and actions are put in place to efficiently manage risk. The EPPO carried out a preliminary fraud risk assessment in January 2021, which is going to be updated annually. The fraud risk assessment was coordinated with the annual risk assessment in order to consider the existing control structure.

In addition to fraud that could stem from the standard compliance objectives (e.g. ensuring that expenditure is legal and regular), the key sources of fraud that could occur are the following:

a) Internal Fraud:

- Asset misappropriation and embezzlement;

- Favouritism with regard to HR matters (i.e. recruitment/promotions);

- Fraud stemming from data theft or the mishandling of confidential information and breach of EPPO's IT systems (i.e. misuse of access rights);

- Conflicts of interests that have not been declared/falsely declared intentionally or accidentally or

- False cost declarations (e.g. mission expenses).

b) External Fraud

- Breach of EPPO's IT systems (i.e. cyber-attacks on the CMS);

- Espionage;

- Attempts by external parties to influence operations staff supporting investigations;

- Intentional breach of public procurement rules or provisions of procurement contracts;

- Non- declaration of bankruptcy by companies while under contract with EPPO or

- Double claiming of costs or overcharged invoices by contractors.

Therefore, robust control systems should be put in place so that any potential source of risk will be undermined and minimised to the largest extent possible. Any risk materialising in irregularity or fraud could have an important reputational damage on the EPPO.

Systems where fraud could materialise:

	Tools/ procedures/ network	Units involved
1.	ABAC Assets Database	Budget / IT and Facilities
2.	ABAC Workflow	Budget
3.	Sysper	HR
4.	EDES	Budget
5.	Case Management System	College and European Chief Prosecutor and operational sector
6.	MiPS	HR & Budget

4. Roles and Responsibilities

The EPPO has in its possession a series of means and resources to fight fraud. The main ones can be broken down in the following areas of competence:

Roles	Responsibilities and Tasks Related to Anti-Fraud
European Chief Prosecutor	Proposes the anti-fraud strategy to the College
College and European Prosecutors	Adopts the anti-fraud strategy Practises the mandate to fight fraud whilst overseeing, coordinating and following up on investigations and prosecutions with European Delegated Prosecutors and Member State Authorities Promotes the anti-fraud culture and encourages a high level of ethics of staff
Administrative Director	Preparing and presenting the Anti-fraud strategy to the College and monitoring the timely implementation of the annexed action plan Act as a coordinator between the Administrative and Operational departments for the reporting of irregularities detected internally by the administrative staff
Heads of Unit/sector	Promoting the anti-fraud culture within their departments Raise staff awareness and ensure that all suspected cases of potential fraud are immediately reported to the Administrative Director or the College Cooperating with all other functions involved in the implementation of the anti-fraud strategy
Operational/Financial Initiating Agents, Operational/Financial Verifying Agents, Authorising Officers by	Implementing the budget of the Office in the assurance that expenditure is legal and regular, and in line with the principle of sound financial management Preparing fraud indicators "red-flags" lists

Delegation, Authorising Officer	Reporting any suspected fraudulent activities within the Budget Unit or from external contractors to the HoU/HoS and Administrative Director Report any conflict of interest as per the workflow of financial circuits as set out in the EPPO Financial Rules
Internal Audit Capability of the EPPO	Assisting the College and Administrative Director by determining whether the Office has adequate internal controls and a satisfactory control environment is in place Considering fraud risk in every audit and monitoring compliance of internal controls set in place Carrying out an audit report on ethics to determine whether the EPPO has effectively implemented an ethics framework in line with the internal rules and the Staff Regulations of the EU to ensure that the ethical standards are respected by the staff Reporting any suspected fraudulent activities within the EPPO that may have been identified when undertaking audit reports
European Court of Auditors	Acting as the Office's external auditor
Legal Unit	Taking on board the antifraud requirements in its legal advices
Human Resources and Training	Ensuring compliance with the relevant provisions of the Staff Regulation and corresponding articles of the Conditions of Employment of other Servants of the European Communities
Security Manager	Facilitator of information related to physical security measures and provision of technical assistance to EPPO investigations
Head of Information Systems	In charge of IT security of management systems and any related fraud risks
Accounting Officer	Monitoring the accounting system (currently the task of accounting officer is entrusted to the European Commission)
Risk Management and Internal Control Manager	Implementation and monitoring of the EPPO's Internal Control Framework and Risk Management Monitoring of compliance with the action plan set out in the EPPO's anti-fraud strategy. Annual reporting on its implementation to the Administrative Director.
Data Protection Officer	Responsible for the enforcement of the EU's Data Protection laws and monitoring with any Data Protection matter that may result in fraud
Experts, partners, suppliers, contractors and consultants	Complying with the anti-fraud strategy and principles

5. Fraud response

Pursuant to article 45, paragraph 12 of the EPPO Financial Rules:

"in the event of any illegal activity, fraud or corruption which may harm the interests of the Union, a member of staff or other servant, including national experts seconded to the EPPO, shall inform their immediate superior, the Administrative Director, or the European Chief Prosecutor or the College of the EPPO, respectively, or, in accordance with its specific competence, the European Anti-Fraud Office. Contracts with external auditors carrying out audits of the financial management of the EPPO shall provide for an obligation of the external auditor to inform the Administrative Director or, if the latter may be involved, the College of any suspected illegal activity, fraud or corruption that may harm the interests of the Union."

The EPPO will streamline and reinforce the use of financial and/or administrative penalties, including exclusion from EU financing in the event of serious irregularities, fraud and corruption, in line with Article 88 of its Financial Rules, section 2 of Chapter 2 of Title V of Regulation (EU, Euratom) 2018/1046.

While the setting-up and the operation of the early-detection and exclusion system is the responsibility of the Commission, the EPPO as other Union institutions and bodies, shall participate in that system by transmitting relevant information to the Commission.

6. Review

This anti-fraud strategy shall be reviewed at the end of 2022 and lessons learned will be taken on board to prepare the next strategy from 2023 onwards. However, progress towards the achievement of the indicators and objectives will be monitored at least annually.

7. Strategy & Action Plan

The strategic objectives of the Anti-Fraud Strategy are driven by the EPPO's priorities and values. The reputation of the Office and the public trust in the highest standards of professionalism, ethics and integrity that it follows is a key driver of the EPPO's actions. For this reason, the EPPO needs to set certain objectives to counter fraud at all levels of the organisation and thus reinforce the public trust in its activities. These objectives aim at encompassing all stages of the anti-fraud cycle: prevention, detection, investigation, recovery and sanction.

Strategic objective 1:

- **Given that the present document is the EPPO's first applicable AFS, the first objective will be to promote a robust anti-fraud culture, as well as encouraging high ethical standards in line with the activities of the EPPO**

Actions:

- Ensure that its rules and ethical values are properly and regularly communicated from the highest levels to its entire staff and that appropriate training is provided.

- Raise awareness, organize trainings, and encourage participation of staff at any level to get involved in anti-fraud practices.
- Organise training and awareness activities regarding EPPO's security classification.

Indicators:

- Number of staff attending relevant trainings and/or activities related to ethics and fraud.
- Level of awareness of staff with regard to the EPPO policies and procedures in place on fraud.

Strategic objective 2:

- **Clarify roles and functions in relation to fraud risks**

Actions:

- Identify the unit in charge of coordinating and implementing the Anti-Fraud Strategy.
- Identify the unit in charge of awareness and training activities regarding ethics and fraud.
- Appoint a Risk Management and Internal Control Manager who will be in charge of overseeing the Internal Control Framework.
- Establish 'Ethics/anti-fraud contact point(s)' for staff.
- Regularly update the content on the Intranet on employee's functions as well as of specific units.
- The Annual Activity Report and the Single Programming Document should contain information on fraud prevention as part of the assessment of the internal control systems.

Indicators:

- All staff are aware of who is responsible for which fraud-related activity within the EPPO.
- The internal control principles are reviewed on an annual basis.

Strategic objective 3:

- **Put in place procedures and processes for fraud prevention and detection purposes**

Actions:

- Set up a system for internal reporting of suspected fraud and irregularities
- Set up a framework for carrying out an annual fraud risk assessment
- Develop guidelines for declaring and managing conflicts of interest

- Develop ethics guidelines with a dedicated focus on anti-fraud
- Determine whistleblowing guidelines and ensure whistleblowing protection to staff exposed to fraud or corruption.

Indicator:

Number of rules and procedures put in place by 31.12.2022.

Action Plan

	Priority	Responsible Entity	Deadline
Strategic objective 1: Promote a robust anti-fraud and culture, as well as encouraging high ethical standards in line with the activities of the EPPO			
1.1 Ensure that its rules and ethical values are properly and regularly communicated from the highest levels to its entire staff and that appropriate training is provided.	Prevention	RM/IC Manager / HR	
1.2 Raise awareness, organize trainings and encourage participation of staff at any level to get involved in anti-fraud practices.	Prevention	HR	
1.3 Organise training and awareness activities regarding EPPO's security classification.	Prevention	Security Sector	
Strategic objective 2: Clarify roles and functions in relation to fraud risks			
2.1 Identify the unit in charge of coordinating and implementing the Anti-Fraud Strategy	Prevention	Administrative Director	
2.2 Identify the unit in charge of awareness and training activities regarding ethics and fraud	Prevention	Administrative Director	
2.3. Appoint a Risk Management and Internal Control Manager who will be in charge of overseeing the	Prevention	Administrative Director	

Internal Control Framework			
2.4 Establish 'Ethics/anti-fraud contact point(s)' for staff.	Prevention	Administrative Director	
2.5 Regularly update the content on the Intranet on employee's functions as well as of specific units	Prevention	HR/Communication	
2.6 The Annual Activity Report and the Single Programming Document should contain information on fraud prevention as part of the assessment of the internal control systems.	Prevention	Administrative Director	
Strategic objective 3: Put in place procedures and processes for fraud for prevention and detection purposes			
3.1 Set up a system for internal reporting of suspected fraud and irregularities	Detection	RM/IC Manager	
3.2 Set up a framework for carrying out an annual fraud risk assessment	Prevention	RM/IC Manager	
3.3 Develop guidelines for declaring and managing conflicts of interest	Prevention	HR	
3.4 Develop ethics guidelines with a dedicated focus on anti-fraud	Prevention	HR	
3.5 Determine whistleblowing guidelines and ensure whistleblowing protection to staff exposed to fraud or corruption	Detection	Administrative Director	