

**MANAGEMENT BOARD DECISION No 56/2015
of 17 December 2015**

adopting Frontex's Anti-Fraud Strategy and Action Plan

THE MANAGEMENT BOARD

Having regard to the Frontex Regulation¹, and, in particular, Article 20(2) and 31 thereof,

Whereas:

The Frontex Financial Regulation² provides, so far as relevant at Article 30, that for the purposes of implementation of Frontex's budget, internal control seeks to achieve prevention, detection, correction and follow-up of fraud and irregularities.

HAS DECIDED AS FOLLOWS:

Article 1

Frontex's Anti-Fraud Strategy and Action Plan, as set out in the Annex to this Decision, is hereby adopted.

Article 2

This Decision enters into force on the day following the date of its adoption.

Done by written procedure, 17 December 2015

For the Management Board

[signed]

Ralf Göbel
Chairperson

¹ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union OJ L 349, 25.11.2004, p. 1, as last amended.

² MB Decision 1/2014.

Anti-fraud Strategy & Action Plan

Done at Warsaw
17/12/2015



Introduction

Frontex is entrusted with taxpayer's money to help it deliver products and services and add value in the domain of external border management. The budget must be used only for the purposes for which it was approved. However, the possibility of fraud and corruption¹ always exists.

Recognising this, Frontex is committed to having a robust anti-fraud programme in place to ensure continuous improvement and effectiveness of anti-fraud controls. This programme will ensure all stages of the anti-fraud cycle are covered, i.e. prevention; detection; investigation, sanctions and recovery. The present document outlines Frontex's anti-fraud strategy for the period 2015-2018.

The EU institutions have developed a Common Approach on EU decentralised agencies that requires a set of anti-fraud measures to be put in place within the agencies. Frontex's anti-fraud strategy has been prepared based on the European Anti-fraud Office (OLAF) "Methodology and Guidance for Anti-Fraud Strategies for EU Decentralised Agencies"² and best-practice example as developed in the European Commission³.

Frontex's anti-fraud strategy (the present document) was also developed following the approach endorsed by the Management Board in the 49th Management Board Meeting held on 20-21 May 2014⁴. The anti-fraud strategy provides a framework for proactively improving the controls we have in place to prevent fraud.

Once this present document is endorsed by the Management Board, the "Action Areas" described in Annex 1 will be developed in more detail taking into account "Means and Resources". As no additional resources will be available, care will be taken to sequence actions reducing the impact on particular individuals or units.

Frontex took the following steps in developing its anti-fraud strategy:

1. Reviewed the main areas of expenditure in the budget;
2. Interviewed key managers;
3. Conducted an internal Anti-fraud survey to diagnose of the state of play covering all stages of the Anti-fraud cycle;
4. Reviewed findings and observations in the audit work conducted by the Internal Audit Service and the European Court of Auditors; and
5. Took into account other relevant Frontex inputs such as the annual assessment of the Internal Control System.

Agency Context

Frontex works in the area of operational cooperation at the external borders of the European Union's Member States and handles a budget of approximately 90 million EUR each year. Key budget figures for 2014 are:

Total budget: 93,410700 EURO

Budget financing: European Commission 93%; SAC 6%; 1% UK and Ireland

¹ For the definitions of fraud and corruption see Annex 2. Throughout this document when Fraud is used it is understood to include corruption as this is a particular type of fraud.

² Document Ref.Ares(20133560341 - 25/11/2013).

³ Frontex' anti-fraud strategy and programme is developed in line with OLAF guideline and also with the Commissions anti-fraud strategy. COM(2011)376; SEC(2011)787.

⁴ The Management Board was informed of our plans to develop the Anti-fraud strategy in the 49th Management Board Meeting: 20-21 May 2014. This action was in line with the "Common Approach on EU decentralized agencies of July 2012". For details see Annex 2 Legal Background and Key Definitions.

Amount implemented as Grants to Member States EUR 47.3m

Budget utilisation: Grants 50%; procurements 20%; Administrative costs 24%

The amended budget for 2015 reached already approximately 142 million EUR, where the increases compared to last years are addressed mainly to finance the operational activities in the form of grants.

Frontex applies the internal control policy promoted by its Management Board and the Commission, especially through the Internal Control Standards⁵.

1. Anti-Fraud Strategic Objectives

Using the inputs listed in the **Introduction** above, the main risks were identified. These risks were then grouped and addressed under four Strategic Objectives as shown below. A heavy emphasis has been put on prevention and detection of fraud.

It should be pointed out that the risk assessment identified many strengths, e.g. that staff are aware of what the “tone at the top” is and they assess this as generally positive. In addition, staff are aware of the main documents that deal with fraud and related issues at Frontex. These documents are considered as a strength as they promote ethical behaviour. Staff consider the controls in their Units and the controls relating to management supervision as effective.

Strategic Objective 1: Increase fraud awareness and strengthen the anti-fraud culture and documentation (covering all phases of the fraud cycle).⁶

The Executive Director of Frontex will establish the right “tone at the top”.

This objective will involve actions which include communication on fraud related issues to increase awareness about potential fraud and our requirements. This includes both staff and those involved in Frontex activities, e.g. our external parties/contractors/beneficiaries ⁷(for instance Member States and our Management Board).

It also includes enhancing: existing documentation with practical examples that are relevant to our various stakeholders and will raise awareness to staff covering all phases of the anti-fraud cycle including the investigation process, the sanctions and the recovery of funds options available to Frontex. Awareness of our ex-post control activities will also be increased.

Indicator: improved scores in surveys. Once basic online tests have been developed, staff learning will be enhanced and tested to ensure the essentials are known. Aggregate results will be an indicator of awareness levels.

Strategic Objective 2: Further develop tools for fraud risk identification, detection and prevention and ensure management oversight.

This includes: improving tools to identify and assess fraud risk (including IT tools); subsequently developing action plans to mitigate risks and integrating these into existing processes for audit recommendations. Lesson learning as part of evaluation and business as usual management - this will ensure that actions are assigned and tracked through to completion. Appropriate oversight will be provided through the Cross-Divisional meetings which are chaired by the Executive Director.

⁵ As approved by Management Board on 25 June 2009.

⁶ Prevention/detection, investigation, sanction/recovery.

⁷ This also includes guest officers who are participating in Frontex related activities.

This objective is in line with Frontex's emphasis on prevention of Fraud and proper use of the budget it has been entrusted with. Improvements in the processes will help ensure the efficient and effective use of the resources used in anti-fraud activities. It will also ensure management has timely information and makes well informed decisions. Such activities will be carried out using existing resources. These aspects of the control system will be further developed at the Frontex-level and also within specific business areas within Frontex.

Indicator: improved information (timely and complete) on risks related to fraud and the implementation of action plans designed to strengthen the management of these risks. A well-functioning management body.

Strategic Objective 3: Improve guidance and controls on conflicts of interest and related matters.

Actions will cover the various functions executed under Frontex's mandate, including for staff and our stakeholders. Conflict of interest occurs where an employee, manager, or executive of an organisation has an undisclosed personal interest in a transaction that adversely affects the organisation's interests. It is a key aspect of potential fraud in any organisation and it therefore has been identified as a key objective. Frontex interacts with many partners and stakeholders. Staff deal with varied and complex matters. As a consequence, Frontex wants to ensure that staff are very aware of the risks and know what resources and support they have at their disposal to get clarity and guidance. Improvements will include documenting practical examples of where Conflict of Interest could arise as staff carry out their Frontex related work, e.g. personal relations or outside activities, or inappropriate contact with potential contractors, etc.

An online test will be developed to ensure that staff are aware of what Conflict of Interest is. This will ensure that staff are aware of how to protect themselves and Frontex from potential Conflict of Interest situations.

Indicator: improved score in Conflict of Interest matters as shown in surveys and online tests.

Strategic Objective 4: Strengthen Frontex' and Member States Cooperation with OLAF.

OLAF's methodology and guidance document⁸ states: "...EU decentralised Agencies should include developing anti-fraud activities especially through prevention, detection, awareness raising and closer cooperation with OLAF". Frontex will achieve this by updating the existing Terms and Conditions document⁹ related to OLAF. Frontex will also identify and utilise OLAF's services for raising awareness and for support in other stages of the anti-fraud cycle.

⁸ Methodology and guidance for anti-fraud strategies for EU decentralized agencies. OLAF. Ref. Ares(2013)3560341 - 25/11/2013. Pg. 5.

⁹ Decision of the Management Board on the Terms and Conditions for the Internal Investigations in Relation to the Prevention of Fraud, Corruption and Illegal Activity Detrimental to the Communities Interests.

Strategic Action Plan (2015-2018)¹⁰**Strategic Objective 1: Increase fraud awareness and strengthen the anti-fraud culture and documentation¹¹**

Stage of Anti-fraud Cycle	Action Areas	Sequencing
Prevention & Detection	1. <u>Improve communication internally and with external stakeholders on fraud related issues and ensure Frontex's requirements are understood at all phases of the anti-fraud cycle.</u> (See also objective 3). Key steps/actions to initially raise awareness are outlined below, awareness will then be managed on an ongoing basis:	
	a. Town Hall meeting to announce & introduce the Anti-fraud strategy	4 th Quarter 2015
	b. Develop multi-year communication approach for communicating to target audiences (internal and external) (methods used will include MyFrontex; our external web site; Town Hall Meetings, the Border Post, etc.). For external stakeholders, use existing processes such as Ex Post audit work to communicate with Member States, identify & use other modes as required.	4 th Quarter 2015
	c. Review existing staff training on ethics, induction training, etc. and ensure anti-fraud is adequately covered. If not a training course should be developed. Training will start in 2016.	4 th Quarter 2015
	d. Implement communication approach in phases. Starting in the 4 th Quarter 2015.	4 th Quarter 2018
	e. Ensure staff know who to call and what documents to consult when they are faced with ethical questions, e.g. whistle-blowing; gifts & invitations to lunches/dinners).	1 st Quarter 2016

¹⁰ This is a "rolling plan", that is each year when the anti-fraud risk assessment process is executed the plans will be reviewed and updated as may be necessary.

¹¹ Covering all phases of the fraud cycle: Prevention/detection, investigation, sanction/recovery.

Frontex Non-Classified Sensitive-Basic Protection Level

	f. Develop and implement an online tool so that staff can build, test and improve their knowledge. Key steps include: identification of key facts (business units will contribute as part of the Working Group on Anti-fraud); drafting questions and answers to test key facts; development and testing of the IT online tool; communicating to staff; deployment of the tool ¹² .	1 st Quarter 2016
Prevention & Detection	2. <u>Improve access to relevant documents¹³ and where necessary improve documentation.</u> Once the steps outlined below are implemented the respective “owners of the documents” will maintain them on an ongoing basis:	
	a. Develop a list of keywords to ensure anti-fraud related documents can be easily identified and retrieved in the RBDMS.	4 th Quarter 2015
	b. Ensure owners of key documents such as Frontex’s Code of Conduct are identified and that these owners provide keywords and other metadata required by the Records Based Document Management System.	4 th Quarter 2015
	c. Review existing documents to identify weaknesses and propose actions to make improvements where necessary.	4 th Quarter 2016

¹² May be deployed using the FRONTEXInformer (SharePoint version)

¹³ Will be done in coordination with the Records Based Document Management System project

Strategic Objective 2: Further Develop Tools for fraud risk identification, detection and prevention and ensure management oversight.

Stage of Anti-fraud Cycle	Actions	Sequencing
Tools		
Detection	1. <u>Improve the assessment of anti-fraud management tools and ensure the implementation of improvement actions to mitigate risks and apply lessons learned.</u> a. Review & improve the anti-fraud survey; assess if it can be integrated into other assessment tools looking to eliminate potential overlaps, e.g. the annual assessment of the internal control system conducted as part of the Annual Activity Report process.	1 st Quarter 2016
	b. Identify ICT data mining tools based on requirements. This should result in the identification of patterns of expenditure which may indicate fraud (will be supported by the Anti-fraud working group). <ul style="list-style-type: none"> Requirements ICT capability 	1 st Quarter 2016 2 nd Quarter 2016
Processes		
Prevention & Detection	2. <u>Review existing anti-fraud controls in key processes at Frontex</u> (e.g. HR recruitment; procurement, etc.), identify improvement actions where necessary and implement improvements. This will be done gradually starting in 2016. (Units to determine their own target dates within the due date specified).	4 th Quarter 2017
Governance and Management Oversight		
Prevention & Detection	3. <u>Ensure roles and responsibilities are clear, agreed on and documented in relevant job descriptions.</u> All stages of the anti-fraud strategy will be covered. Guidance note to be developed by HoHRSU & job descriptions will be reviewed by relevant line managers as part of the Staff Appraisal exercise. Any necessary changes to be agreed & implemented with staff concerned.	4 th Quarter 2017

Frontex Non-Classified Sensitive-Basic Protection Level

Prevention & Detection	4. <u>Establish an internal Anti-Fraud oversight panel¹⁴ that periodically reviews & discusses potential fraud-related issues.</u> The ToR will be prepared & approved by Senior Management The tasks will include: <ul style="list-style-type: none"> • reviewing OLAF cases to identify the fraud risk factors, fraud schemes described by OLAF and the adequacy of Frontex measures; • providing senior management with concise information on a periodic basis; • making recommendations to strengthen controls, draft action plans; • overseeing the timely implementation of these actions; and • ensuring staff are aware of the activities of this body. 	1 st Quarter 2016
Prevention & Detection	5. <u>Develop a clear and simple document outlining the roles & responsibilities related to anti-fraud activities in Frontex.</u> Will include key persons in Frontex and will also include role of the MB. Document will be disseminated to staff & they will have ready access to it. An external & internal communication approach for dealing with a case of fraud will be defined and included in Frontex' crisis communication process. (FSC, PR)	1 st Quarter 2016

Strategic Objective 3: Improve guidance and controls on conflict of interest (Col) and related matters (also related to Objective 1).

Stage of Anti-fraud Cycle	Actions	Sequencing
Prevention & Detection	1. Prepare a Conflict of Interest policy for approval of the ED.	1 st Quarter 2016
Prevention & Detection	2. Ensure that a Statement of Commitment of each MB member for the term of office is signed and published on the Frontex website.	4 th Quarter 2015
Prevention & Detection	3. <u>Review the contents of existing Col documents and upgrade where necessary.</u> Compare what exists with the requirements in the Financial Regulation and other key documents. Identify best practice in other entities such as the European Commission, Agencies and OLAF and make any necessary improvements. Review points raised by the Ombudsman. Make improvements where necessary.	3 rd Quarter 2016

¹⁴ Comprised of Legal, representatives of key business areas of Frontex and facilitated / supported by the Quality Manager.

Frontex Non-Classified Sensitive-Basic Protection Level

Prevention & Detection	4. <u>Document existing practical examples/case studies</u> of potential Col for the different areas of our business.	4 th Quarter 2016
Prevention & Detection	5. Raise general awareness of Col focusing on Frontex staff, partners and our key stakeholders (including the MB). Individual managers to raise awareness as part of their line management responsibilities; there will also be general awareness sessions, e.g. town hall meetings, brown-bag lunches, etc. Staff then to be kept informed on an ongoing basis, (See actions under Objective 1)	4 th Quarter 2016

Objective 4: Strengthen Frontex' and Member States Cooperation with OLAF

Stage of Anti-fraud Cycle	Action Areas	Sequencing
Investigation	1. Contact OLAF to ensure that we are fully aware of the support they can provide and if necessary update our agreement with them.	1 st Quarter 2016
Prevention	2. Leverage OLAF as a partner for raising awareness both within Frontex and in the Member States as may be needed. Once done maintain on an ongoing basis. ¹⁵	1 st Quarter 2016

¹⁵ Raising awareness in Member States will be mainly done as part of the ongoing Ex Post control work.

Legal Background and Key Definitions

Extract from Article 30 of Frontex' Financial Regulation (Internal Control and Budget Implementation):

1. *"The budget of the Agency shall be implemented in compliance with effective and efficient internal control.*
2. *For the purposes of the implementation of the budget of the Agency, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:*
 - (a) *effectiveness, efficiency and economy of operations;*
 - (b) *reliability of reporting;*
 - (c) *safeguarding of assets and information;*
 - (d) *prevention, detection, correction and follow-up of fraud and irregularities;*
 - (e) *adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned."*

Requirements as stated in the "Common Approach on EU decentralised Agencies"

"In line with the Common Approach on EU decentralised agencies (hereinafter: agencies) of July 2012, the management board of new agencies will have to:

1. *adopt an anti-fraud strategy which is proportionate to their fraud risks, having due regard to the costs and benefits of the measures to be implemented,*
2. *adopt rules for the prevention and management of conflicts of interest in respect of its members [and members of its board of appeal and scientific committee(s)],*
3. *ensure adequate follow-up to findings and recommendations stemming from internal or external audit reports and evaluations and from investigations by OLAF;¹⁶*

The executive director of new agencies will be responsible for:

1. *protecting the EU's financial interests by taking preventive measures against fraud, corruption and any other illegal activities, carrying out effective checks and, if irregularities are detected, recovering amounts wrongly paid and, where appropriate, imposing effective, proportionate and dissuasive administrative and financial penalties,*
2. *preparing an anti-fraud strategy for the agency and presenting it to the management board for approval."*

OLAF recommends that all agencies follow the same pattern, even if their respective constituent acts have not yet been revised to incorporate the above provisions.

All EU decentralised agencies should be committed to taking strong measures to address and mitigate any fraud, corruption or other illegal activity affecting the financial interests of the European Union. In this context, the development of an anti-fraud culture among all stakeholders is of the utmost importance.

In order to streamline the development of anti-fraud. Although it is not compulsory to use this methodology, it would enable agencies to comply with the objectives laid down in the CAFS.

¹⁶ In those agencies which have an executive board, the latter should ensure, together with the management board, adequate follow-up to the findings and recommendations stemming from internal or external audit reports and evaluations and from investigations by OLAF.

Key Definitions

1. Fraud: An intentional act of deception for gain. Covers irregularities & illegal acts, damaging the interests of EU. Fraud is perpetrated to:

- a. Obtain money, property or services
- b. Avoid payment or loss of services
- c. Secure personal or business advantage

2. Corruption: requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof¹⁷. Corruption in a broad sense as any 'abuse of power for private gain'. It therefore covers specific acts of corruption and those measures that Member States take specifically to prevent or punish corrupt acts as defined by the law, and also mentions a range of areas and measures which impact on the risk of corruption occurring and on the capacity to control it."¹⁸

3. Irregularity: any infringement of a provision of Union 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 Union or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Union, or by an unjustified expenditure.

4. Conflict of Interest: A conflict of interest situation arises when a person takes any action which may bring their own interests into conflict with those of the Agency. In such situations "... the person in question shall refrain from such actions and shall refer the matter to the competent authority who shall confirm in writing whether a conflict is found to exist, the person in question shall cease all activities in the matter." ¹⁹

¹⁷ As defined in the Council of Europe treaty, CETS No.174.

¹⁸ EC Anti-corruption Report 2014.

¹⁹ Article 41 of Frontex' financial regulation.