

# **Report on the implementation of the Anti-Fraud Strategy of the European Food Safety Authority**

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## 1. Background

### ■ 1.1. General context

The budget of the European Union (EU) is taxpayers' 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 and the implementation of EU policies. Article 325 of the Treaty on the Functioning of the European Union (TFEU) calls upon the Union and the Member States to combat fraud and put in place measures to combat fraud, which shall be such as to afford effective protection in all the Union's institutions, bodies, offices and agencies.

For these reasons, in June 2011 the European Commission adopted its anti-fraud strategy<sup>1</sup>, whose action plan<sup>2</sup> stated *inter alia* that anti-fraud measures within the European Agencies should be promoted. The same idea was also reflected in the roadmap on the follow-up to the Common Approach on European decentralised agencies of December 2012<sup>3</sup>.

The European Food Safety Authority (hereinafter referred to as 'EFSA' or 'the Authority') handles a budget of approximately € 79 million each year. It receives almost all of its revenue from the European budget, with a small percentage coming from third countries. The Authority applies the internal control policy promoted by the European Commission, especially through the Internal Control Standards.

### ■ 1.2. The EFSA's Anti-Fraud Strategy and the report on the implementation of its Action Plan

Against this background, the Authority has developed its own Anti-Fraud Strategy (hereinafter referred to as 'the Strategy') in line with the guidance document provided by the European Anti-Fraud Office (OLAF)<sup>4</sup>. The Audit Committee of the EFSA Management Board discussed the draft Strategy, together with its Action Plan, in its meeting of the 17<sup>th</sup> of December 2014. Further to the implementation of the comments of the Audit Committee, on the 19<sup>th</sup> of March 2015 the Management Board adopted the EFSA's Anti-Fraud Strategy and its Action Plan<sup>5</sup>.

The Strategy aimed to set a horizontal EFSA framework for the fight against fraud and took into account the priorities set by the European Commission within the framework of the Common Approach on EU decentralised agencies.

The methodology of the EFSA Anti-Fraud Strategy is based on three steps: fraud risk assessment, setting of the objectives that will improve the process of fight against fraud, translation of the set of objectives into an action plan.

The Strategy was largely based on the findings of an EFSA-wide fraud risk assessment exercise performed on the basis of the definition of 'fraud' provided by the European Anti-Fraud Office. Further to the fraud risk assessment, the following areas were identified as requiring attention: plagiarism, falsification of documents, misbehaviour when completing a declaration of interest and favouritism. On the basis of the abovementioned exercise and by taking into consideration the specific context of the

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions and the Court of Auditors on the Commission anti-fraud strategy, 24.06.2011, COM(2011)376 final.

<sup>2</sup> Communication to the Commission, Commission internal action plan for the implementation of the Commission anti-fraud strategy, SEC(2011)787.

<sup>3</sup> Available for consultation at [https://europa.eu/european-union/sites/europaeu/files/docs/body/2012-12-18\\_roadmap\\_on\\_the\\_follow\\_up\\_to\\_the\\_common\\_approach\\_on\\_eu\\_decentralised\\_agencies\\_en.pdf](https://europa.eu/european-union/sites/europaeu/files/docs/body/2012-12-18_roadmap_on_the_follow_up_to_the_common_approach_on_eu_decentralised_agencies_en.pdf).

<sup>4</sup> Methodology and guidance for anti-fraud strategies for EU decentralised agencies, document circulated by OLAF.

<sup>5</sup> Document reference mb 19 03 15 item 9 doc 8.

Authority, four objectives had been identified: 1) maintaining a high level of ethics and fraud awareness; 2) ensure robustness of fraud detection; 3) strengthening the cooperation with OLAF as key actor in the fight against fraud; 4) ensuring effective implementation of the anti-fraud measures. This objective setting exercise was performed with the aim to achieve an action plan of strategic fit and avoiding overlaps.

The action plan contained a set of 7 actions linked to the four objectives and covering a period of 2 years. For each action an indicator was identified in order to be able to monitor the implementation of each of them.

The present implementation report serves the purpose of informing the Management Board in a dedicated manner of the progress made with regard to each action. Subsequently the progress on the implementation of the Strategy's Action Plan will also be reported in the EFSA's Annual Activity Report of 2016.

This report shows that all the actions foreseen by the Action Plan have been implemented. This result contributed to the realization of EFSA's strategic objectives as laid down in its Multi-annual Work Plan 2014-2016, in particular the objective of building more transparency and trust.

The implemented actions are also in line with the other initiatives and instruments promoted by EFSA, such as the EFSA Code of Good Administrative Behaviour, the Policy on Independence, the Decision of the Executive Director on Declarations of Interest. They all contribute to the compliance with the highest standards of ethics and integrity, that the Authority commits to ensuring in order to achieve its institutional mandate.

## **2. Means and resources employed**

The implementation of the Anti-Fraud Strategy throughout the 2-years reporting period has been supported by a cooperative effort, showcasing successful cooperation among EFSA's Departments.

The expertise, raw data, literature and methodological approach needed for the development and implementation of the Strategy were all available in-house. No additional financial resources were allocated nor deployed to the implementation of the Action Plan. The entire implementation was financed through current budgetary lines, which were managed to reach such objective.

## **3. Steps undertaken for the implementation of the Anti-Fraud Strategy's Action Plan over the period 2015-2016**

The Action Plan established a programme and timetable for EFSA to put in place some actions by the end of the reporting period (Q4 2016). The Action Plan has identified all actions to be taken to deliver the four objectives of the Strategy and all the scheduled actions have been implemented.

In this section more detailed information is provided on the activities carried out to implement each objective of the Anti-Fraud Strategy. In this respect a summary table is also annexed to the present report.

### **■ 3.1. Objective 1 (Prevention): Maintaining a high level of ethics and fraud awareness**

The first objective of the Strategy was based on the common knowledge that the presence of a fraud awareness reflex among staff is pivotal to preventing fraud from taking place. During the fraud risk assessment exercise it emerged that although the

general level of awareness was good, the number and the complexity of the existing rules reinforced the need for appropriate training and communication of relevant information to staff.

The main actions to implement such objective were identified in the delivery of anti-fraud trainings addressed to all staff (in particular on the topic of plagiarism for scientific units), the continuous evolution of the EFSA Practical Guide to Staff Ethics and Conduct, and the enhancement of the effective function of the role of the Ethics Advisor.

With regard to the trainings, LRA has addressed anti-fraud related topics in the context of the Ethics and Integrity trainings delivered on the 7<sup>th</sup> of December 2015 and on the 17<sup>th</sup> of December 2015. The latter was dedicated to the role of EFSA's managers in promoting ethics and an anti-fraud culture. The topic of plagiarism, together with the one on copyright rules, was part of these trainings and particularly addressed to scientific colleagues.

Moreover, to complement the information delivered on occasion of such events, an updated version of the Practical Guide to Staff Ethics and Conduct has been published on a dedicated webpage of the EFSA's intranet. This webpage has been entirely devoted to the topic of 'Ethics at Work' and contains the presentations given during the abovementioned trainings.

Guidance is also provided on this page to the role of the Ethics Advisor, a function put in place in 2012 and whose task is to guide EFSA's staff through the workflows touching upon Ethics and Integrity (e.g. rules on outside activities, publications), but also advise on ethical dilemmas that staff might face at work (e.g. whistleblowing procedure). A functional mailbox was created to that effect and staff members make use of such tool.

### ■ **3.2. Objective 2 (Detection): Ensure robustness of fraud detection**

The second objective of the Strategy was identified to create an environment that does not tolerate fraud and that can provide reasonable assurance of fraud being detected. In this respect, emphasis was placed in particular to the groups of staff with a higher level of exposure to the opportunity of acting in a fraudulent manner.

The main actions to implement this objective were identified in the creation of a procedure for the handling of complaints of whistle-blowers and the development of a list of red flags regarding falsified documents.

Pending the adoption of implementing rules on whistleblowing under the framework of Article 110 of the Staff Regulations<sup>6</sup> (foreseen for 2017)<sup>7</sup>, in January 2016 the whole workflow for the handling of complaints submitted by whistle-blowers was clarified. This adds to the guidance designed to address whistle-blowers' concerns which has been already in place at EFSA since years, namely the "Practical Guide to Staff Ethics and Conduct", thus providing further steering to staff members willing to blow the whistle.

As a result, EFSA's staff has been empowered to actively engage in the detection of fraud, corruption and other serious wrongdoing. Indeed the whole process of blowing the whistle is streamlined, the rights of the whistle-blowers and the mechanisms to protect them are now clearer, as well as the specific obligations the Authority has vis-à-vis a

<sup>6</sup> OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29.10.2013, p.15.

<sup>7</sup> Following the revision in 2014 of Article 110 of the Staff Regulations, Agencies need to obtain a formal agreement from the European Commission before adopting guidelines on whistleblowing as the latter implement the Staff Regulations. In this regard EFSA has recently been informed that the European Commission is preparing a model decision for Agencies on this matter. Therefore, the Authority has deemed it appropriate to wait for such model decision to be adopted, in order to align as much as possible its practice on whistle-blowing on the one of the European Commission and other Agencies. Once this model decision will be adopted at Commission's level and notified to Agencies, the Authority will be able to proceed with its adoption.

whistle-blower (e.g. obligation to provide feedback). Consequently the whole whistle-blowing has become more tangible.

With regard to the development of a list of red flags regarding falsified documents, while relatively easy to put in place compared to more sophisticated types of fraud, the falsification of documents is also one of the fraud schemes which can benefit most from preventive activities such as raising awareness among desk officers. To that effect, the development of a list of red flags for the use of EFSA's staff was deemed to be a very effective tool to ensure the robustness of fraud detection. Therefore, on the basis of their experience with handling different types of documents for the purpose of their mandate and taking also into account OLAF's trends and guidance, the Human Capital and Knowledge Management Unit (HUCAP) has created an internal guidance document on red flags concerning falsified documents. Such document has been developed by referring to EU and international sources and comprises red flags related to the format of the document, to its content or to some specific circumstances/inconsistencies between the document and other available information.

### ■ **3.3. Objective 3 (Investigation): Strengthening cooperation with OLAF as key actor in the fight against fraud**

The third objective of the Strategy was identified as a mean to create optimal working arrangements with OLAF, the main external partner of EFSA in the fight against fraud. This concerns in particular the swift exchange of information to ensure that possible investigations by OLAF are not jeopardised.

To reach this objective, the EFSA's rules regarding investigations dated 2002 have been revised by taking into account the changes in the legislative landscape governing OLAF's operations<sup>8</sup>. As OLAF's mandate comprises the conduct of investigations within agencies, these rules implement the duty of cooperation with OLAF and to lend any assistance required. They also ensure the duty of staff members to supply information as well as lay down provisions on informing the interesting parties<sup>9</sup>.

Moreover, while EFSA did not experience any case of fraud over the reporting period calling for a direct cooperation with OLAF, it is worth mentioning that a representative of LRA is also part of the permanent structure of an inter-Agencies pool of investigators established upon suggestion of the European Commission in order to conduct administrative inquiries. Being part of such a group allows EFSA to exchange best practices with the other Agencies and with OLAF, hence fully reaching the set objective.

### ■ **3.4. Objective 4 (Prevention, Detection, Investigation): Ensuring effective implementation of anti-fraud measures**

The main action attached to the objective of ensuring the effective implementation of anti-fraud measures was identified in the continuous monitoring of the implementation of the Action Plan, which this report intends to address. Informing the Management Board in a dedicated manner on the progress made with regard to each action is a way to implement this objective as it ensures that the Anti-Fraud Strategy is closely monitored.

Moreover, reference to the progress of this implementation has been inserted in the Annual Activity Report of 2015 and will be inserted in more details in the one of 2016, to be approved by the Management Board in Q1 2017.

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<sup>8</sup> Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ L 248 of 18.9.2013, p. 1 ff.

<sup>9</sup> These rules are largely taken from the provisions already laid down by the abovementioned Regulation (EU, EURATOM) No 883/2013.

## 4. Outcomes and the way ahead

It must be highlighted that the fraud risk monitoring shows very encouraging results as to the fact that EFSA is a fraud-proof environment and that a very solid system is in place should the need arise to tackle fraud instances.

Hence, while continuous monitoring must remain an essential element of the Strategy also in the incoming years, for the future outlook EFSA is envisaging a risk-based approach which takes into account also reflections on the proportionality of the measures. This is particularly true with reference to the objective of fraud detection, given the rare occurrence of frauds at EFSA in the past. As a consequence, objective 1 (maintaining a high level of ethics and fraud awareness) is identified as the most important one also for the future. Successful initiatives which have been initiated in 2015-2016 (e.g. trainings for all staff) and which proved to have an important impact on raising fraud awareness will be continued in the incoming years, also through different delivering tools.

In this regard EFSA has planned to create in 2017 a compulsory e-learning training course for all staff. This instrument will have the advantage of reaching a higher number of people with a reduced effort. The other measures, such as the function of the Ethics Advisor, will remain in place and further advertised through the e-learning training course.

Such initiative will also serve the purpose of drawing the attention of EFSA's staff to the workflow for the handling of whistle-blowers' complaints. In this regard, the adoption of implementing rules of whistle-blowing, foreseen for 2017 further to adoption by the European Commission of a model decision for Agencies, will also add to the very strong environment that EFSA has created in the meanwhile with regard to the possibility for staff to blow the whistle.

Moreover, additional synergies will be generated by the internal control re-organisation exercise, by which EFSA will further invest in ex-ante prevention of risks, including fraud risks. The assurance capability will be reinforced and this will be of benefit also for the further implementation of the Strategy. Thanks to the new function of assurance advisership in the internal control second line of defence, the next general risk assessment exercise will be able to incorporate also the fraud risk assessment in one exercise. The performance of this exercise in 2017 will allow identifying possibly new fraud risks areas and to reassess the ones already identified in the risk assessment carried out in 2014 ahead of the adoption of the Anti-Fraud Strategy. As a consequence, the next possibly needed actions will be identified on the basis of the results of this new exercise. However, the very low occurrence level of fraud already shows that the detection measures could be considered a lower priority compared to the initiatives aimed at raising anti-fraud awareness among staff or at strengthening cooperation with OLAF.

In this regard, attendance to the trainings that will be organised in 2017 by the Investigation and Disciplinary Office (IDOC) of the European Commission, in the framework of the participation of EFSA in the inter-Agencies pool of investigators, will allow exchanging best anti-fraud practices with other Agencies and with OLAF.

**Annex: Summary table on the implementation of the actions of the Anti-Fraud Strategy's Action Plan 2015/2016**

OBJECTIVE	ACTION	INDICATOR	TARGET DATE	LEAD RESPONSIBLE	STATUS
<b>Objective 1</b> Maintaining a high level of ethics and fraud awareness (Prevention)	1.1. Training aiming to prevent fraud address to all the staff. In particular, regarding scientific units focus should be placed on the topic of plagiarism	Percentage of targeted staff having followed the training	By the end of 2015 and by the end of 2016	Legal and Regulatory Affairs Unit – Resources and Support Department	Action completed
	1.2. Continuous evolution of the EFSA Practical Guide to Staff Ethics and Conduct	Updated version of the Guide published on the EFSA intranet	Second quarter of 2015	Legal and Regulatory Affairs Unit – Resources and Support Department	Action completed
	1.3. Enhancing the effective function of the role of the Ethics Advisor	Putting in place relevant workflow	Fourth quarter of 2015	Legal and Regulatory Affairs Unit – Resources and Support Department	Action completed
<b>Objective 2</b> Ensure robustness of fraud detection (Detection)	2.1. Putting in place a procedure for the handling of complaints made by whistle-blowers	Adoption of internal rules and raising awareness on the existence of the mechanism to the whistle-blowers	End of 2015	Legal and Regulatory Affairs Unit – Resources and Support Department	Action completed



	2.2. Develop a list of red flags regarding falsified documents	Adoption of updated rules	Second quarter of 2016	Human Capital and knowledge management Unit – Resources and Support Department	Action completed
<b>Objective 3</b>					
Strengthening cooperation with OLAF as key actor in the fight against fraud (Investigation)	3.1. Updating of existing EFSA rules (dated 2002) regarding investigations	Adoption of updated rules	Second quarter of 2016	Legal and Regulatory Affairs Unit – Resources and Support Department	Action completed
<b>Objective 4</b>					
Ensuring effective implementation of anti-fraud measures (Prevention, Detection, Investigation)	4.1. Monitoring of the implementation of the anti-fraud action plan	Reporting on the progress of the implementation of the anti-fraud action plan in the Annual Activity Report of EFSA	Beginning 2016 and beginning 2017	Legal and Regulatory Affairs Unit – Resources and Support Department	Action completed <sup>10</sup>

<sup>10</sup> Information on the implementation of the Anti-Fraud Action Plan was reported in the Annual Activity Report of EFSA for the year 2015, approved by the Management Board in March 2016. Likewise, the Annual Activity Report for the year 2016, which is scheduled to be approved in March 2017, will reflect the steps for the implementation of the Anti-Fraud Action Plan performed in 2016.