



Decision of the Executive Director No 52/2024

on fraud prevention roles and responsibilities and escalation mechanisms

THE EXECUTIVE DIRECTOR,

HAVING REGARD to Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum¹ (hereinafter 'the EUAA Regulation'), and in particular Article 47(5)(g) thereof,

WHEREAS:

- 1) Articles 22a and 22b of the Staff Regulations of Officials of the European Union ('Staff Regulations'), applicable to temporary staff by virtue of Article 11 of the Conditions of Employment of Other Servants of the European Union ('CEOS'), as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68², lay down provisions on whistleblowing and establish the obligation of the Agency's staff to report possible illegal activity, including fraud or corruption, detrimental to the interests of the European Union (EU), or conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of the staff.
- 2) Pursuant to Article 45(12) of the Agency's Financial Regulation, in the event of any illegal activity, fraud or corruption which may harm the interests of the EU, a member of the Agency's staff or other servant, including national experts seconded to the Agency, are to inform their immediate superior, the Executive Director or the Management Board, or the European Anti-Fraud Office ('OLAF') or the European Public Prosecutor's Office ('EPPO') directly.
- 3) Pursuant to Article 30(2)(d) of the Agency's Financial Regulation, internal control should be designed to provide reasonable assurance of achieving prevention, detection, correction and follow-up of fraud and irregularities.
- 4) Pursuant to results of the fraud risk assessment³, roles and responsibilities for the anti-fraud cycle as well as the escalation mechanisms have to be documented and explained.

¹ Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, (OJ L 468, 30.12.2021, p. 1).

² 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).

³ As endorsed by the Agency's senior management on 10 April 2024 and documented in the Fraud Risk Register Action Plan Summary (risks 3 and 7 as well as control activities 3.2, 7.1, 7.2, 7.3), available at https://euaa.europa.eu/sites/default/files/2024-05/2024_EUAA_Fraud_Risk_Register_Action_Plan_Summary.pdf. Any updates of this document will be made available on the Agency's website in the section 'Internal Control' at: <https://euaa.europa.eu/about-us/governance-and-internal-control>.





- 5) The roles and responsibilities for the implementation of the internal control framework laid down in Decision of the Executive Director No 41 of 2 May 2024⁴ (hereinafter 'ED Decision No 41/2024') need to be further supplemented to cover in full the anti-fraud cycle.
- 6) Pursuant to Internal Control Principle 5 laid down in Annex 1 to Management Board Decision No 160 of 14 March 2024 on the Internal Control Framework, the Agency defines clear roles and responsibilities and holds individuals and entrusted entities accountable for the performance of internal control responsibilities across the organisation.
- 7) This Decision should be compliant with the Decision of the Executive Director No 28 of 20 February 2023 implementing Management Board Decision No 127 of 13 February 2023 establishing the Agency's internal structures, and laying down the internal rules of procedure (ISROP), and its subsequent amendments,

HAS DECIDED AS FOLLOWS:

Article 1
Purpose and scope

1. As part of enhancement of the Agency's internal control systems, and in particular the anti-fraud cycle, Annex 1 to this decision on the roles and responsibilities of key internal and external entities and functions of the Agency for prevention, detection, investigation and correction of fraud, as well as Annex 2 to this decision on the escalation mechanisms, are hereby adopted.
2. The provisions of this Decision, including the annexes, shall apply to statutory staff⁵ and seconded national experts⁶ (hereinafter 'the staff').

Article 2
Awareness raising

1. As part of the Agency's efforts to further strengthen the anti-fraud culture within the Agency, the staff shall participate in and complete the internal control training module on fraud prevention.
2. Among other topics, the training module referred to in paragraph 1 shall present in detail whistleblowing guidelines and practical internal and external escalation mechanisms, as well examples of red flags of fraud and how the Agency's controls that are in place mitigate and/or minimise the risk of fraud.

⁴ Decision of the Executive Director No 41 of 2 May 2024 on the roles and responsibilities for the implementation of the internal control framework.

⁵ For the purposes of this Decision, the term 'statutory staff' includes temporary agents and contract agents covered by the Staff Regulations and CEOS.

⁶ Within the meaning of Article 1 of Management Board Decision No 1 of 25 November 2010 laying down rules on the secondment of national experts (SNE) to the European Asylum Support Office.



Article 3 **Transparency**

This Decision may, if so required for transparency reasons, be made public on the Agency's website.

Article 4 **Entry into force**

This Decision enters into force on the date of its signature.

Done at Valletta Harbour, on 30 May 2024

Signature on file

Nina Gregori
Executive Director

Annexes: 1. Roles and responsibilities of the actors involved in the anti-fraud cycle.
 2. Escalation mechanisms.

Annex 1

Roles and responsibilities of the actors involved in the anti-fraud cycle

The collaborative efforts of numerous actors, including both internal and external entities (refer to Figure 1), are critical for ensuring responsiveness at each stage of the anti-fraud cycle: prevention, detection, investigation and correction.

Figure 1. Roles and responsibilities of the actors involved in the anti-fraud cycle: prevention, detection, investigation and correction.



The following constitute the roles of the main internal and external actors involved in fostering a culture of zero tolerance to fraud in the Agency.

1. The Management Board and the functions thereunder

1.1. Management Board

The Management Board is responsible for adopting the Agency's anti-fraud strategy⁷ and for ensuring adequate follow-up to the findings and recommendations stemming from the various internal or external audit reports and evaluations, as well as from investigations by OLAF and the EPPO⁸. The Management Board demonstrates independence from the Agency's day-to-day management and exercises oversight of the Executive Director's responsibility for the implementation of the Agency's internal control framework and the anti-fraud strategy.

1.2. Executive Director

In their capacity as authorising officer⁹, the Executive Director has the overall responsibility for the implementation of the anti-fraud strategy, in particular, to protect the financial interests of the Agency (and the EU) by applying preventive measures against fraud, corruption and any other illegal activities, by putting in place effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties¹⁰.

Moreover, the Executive Director is also responsible for:

- setting the tone at the top by promoting an anti-fraud culture across the Agency, setting anti-fraud management objectives and putting in place effective arrangements for combating fraud;
- preparing, with the support of the OLAF and EPPO correspondent and Internal Control and Compliance Unit, an anti-fraud strategy for the Agency and presenting it to the Management Board for approval¹¹;
- monitoring, with the support of the OLAF and EPPO correspondent, and Internal Control and Compliance Unit, the proper and timely implementation of the anti-fraud strategy action plan;
- preparing an action plan following up on conclusions of internal or external audit reports and evaluations as well as investigations by OLAF and EPPO, and reporting on the progress twice per year to the Commission and regularly to the Management Board¹²;
- informing the Commission, without delay, on cases of presumed fraud and other financial irregularities, and of any completed or ongoing investigations by the EPPO or OLAF¹³.

⁷ Article 41(1)(e) of the EUAA Regulation.

⁸ Article 41(1)(u) of the EUAA Regulation.

⁹ Article 39(1) of the Agency's Financial Regulation.

¹⁰ Article 47(5)(g) of the EUAA Regulation.

¹¹ Article 47(5)(h) of the EUAA Regulation.

¹² Article 47(5)(f) of the EUAA Regulation.

¹³ Article 86 of the Agency's Financial Regulation.

1.3. Accounting Officer

The Accounting Officer is responsible for devising and validating the accounting systems and, where appropriate, validating the systems laid down by the authorising officer to supply or justify accounting information¹⁴.

In order to safeguard the financial interests of the Agency and the EU, the Accounting Officer has to be informed without delay by the OLAF and EPPO correspondent of the outcome of any investigation where, as a result of serious irregularities and illegal activities, including fraud or corruption, detrimental to the financial interests of the Agency (and the EU), recovery actions need to be implemented immediately.

2. Functions and entities under the Executive Director

2.1. Deputy Executive Director

The Deputy Executive Director exercises the responsibilities laid down in Article 2 of ED Decision No 41/2024.

2.2. OLAF and EPPO correspondent

The Head of the Institutional and Horizontal Affairs Centre, as the Agency's OLAF and EPPO correspondent, exercises the responsibilities laid down in Article 4(1) of ED Decision No 41/2024.

The tasks and responsibilities can be detailed further as follows¹⁵:

- participate in bilateral meetings between OLAF or the EPPO and the Agency when reporting fraud;
- ensure that the necessary measures are taken to transmit to OLAF or the EPPO without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Agency (and the EU);
- cooperate with OLAF or the EPPO in its selection, investigation and monitoring activities for cases related to the Agency;
- facilitate OLAF's or the EPPO's access to the necessary information for its selection and investigation activities, including to relevant databases managed by the Agency;
- promote compliance with the deadlines indicated by OLAF or the EPPO when these request the Agency to transmit information during the selection, investigation of cases or monitoring of recommendations;
- ensure the proper handling (confidentiality and data protection) of information received from OLAF or the EPPO relating to the cases at any stage (selection, investigation/coordination,

¹⁴ Pursuant to Article 49(e) of the Agency's Financial Regulation and Section 6.6 of the Annex to Management Board Decision No 19 of 16 September 2013 on the Charter of tasks and responsibilities of the EASO Accounting Officer.

¹⁵ European Commission guidelines on the tasks and responsibilities of the OLAF correspondents of Commission services and executive agencies (Ref. Ares(2021)694062, 28.1.2021).

- monitoring of recommendations), in particular with regard to taking appropriate precautionary measures, and ensuring that any such information is disclosed only on a need-to-know basis;
- provide OLAF or the EPPO with information concerning follow-up to recommendations issued as a result of an OLAF or EPPO investigation and giving feedback periodically;
 - inform the competent authorities in order to recover amounts wrongfully paid and, where necessary, support the Executive Director when imposing effective, proportionate and dissuasive administrative and financial penalties to safeguard the financial interests of the Agency (and the EU);
 - maintain a file for each OLAF or EPPO case concerning the Agency, including all the requests made by OLAF or the EPPO, information provided to OLAF or the EPPO, follow-up measures taken, and other relevant information.

2.3. Manager responsible for risk management and internal control

The manager responsible for risk management and internal control assists the Executive Director and the OLAF and EPPO correspondent¹⁶ in developing, implementing and monitoring preventive measures against fraud, corruption and any other illegal activities, and irregularities, if detected. They have a role in increasing awareness on fraud prevention and support the Executive Director and OLAF and EPPO correspondent to foster a culture of zero tolerance to fraud. They are assisted by the Internal Control and Compliance Unit in the execution of their duties related to the prevention and detection of fraud.

The main tasks of the manager responsible for risk management and internal control to support the Executive Director with fraud prevention are:

- proposing the methodology for fraud risk management;
- coordinating the fraud risk assessment, supporting the OLAF and EPPO correspondent with developing the Agency's anti-fraud strategy, and regularly monitoring the implementation of the associated action plan;
- raising awareness with all staff on the whistleblowing guidelines;
- acting as a technical advisor to responsible authorising officers (RAOs) when designing and implementing fraud prevention and detection measures within their internal control systems;
- executing the financial *ex post* control strategy for ongoing *ex post* controls, as well as for implementing *ad hoc ex post* controls of specific processes and procedures at the request of the Executive Director;
- coordinating and conducting the risk management process to identify potentially and genuinely sensitive functions, and proposing mitigating controls to reduce the inherent risk posed by potentially sensitive functions;
- providing regular and customised training to all staff on internal control, risk management and fraud prevention;
- providing the necessary advice to staff members in relation to any red flags of fraud and on how to report them¹⁷.

¹⁶ Pursuant to Article 3(5) of ED Decision No 41/2024.

¹⁷ The staff of the Internal Control and Compliance Unit and the manager responsible for risk management and internal control are not part of the formal whistleblowing channels. The unit is only expected to provide staff members with the required guidance on any questions they may have related to this subject matter.

2.4. Responsible authorising officers

RAOs play a vital role in upholding the Agency's commitment to promote an anti-fraud culture within their entities and teams. They serve as the first line of defence and are thus responsible for preventing and detecting fraud within their specific domain and areas of responsibility.

RAOs are entrusted with:

- managing the risk of fraud through the implementation of efficient and effective controls in alignment with the Agency's internal control framework, as outlined in the charter of tasks and responsibilities for RAOs;
- identifying and analysing red flags of fraud and collaborating with all relevant stakeholders involved in the implementation of the anti-fraud strategy;
- providing advice and recommendations to the Executive Director, where necessary, regarding any irregularities, red flags, serious mismanagement, conflicts of interest, and internal control deficiencies;
- refraining from dealing with any matter in which, directly or indirectly, they have any personal interest that could impair their independence, and, in particular, family and financial interests;
- ensuring that staff members assigned the responsibility of executing specific controls have sufficient knowledge of the overall organisational structure and the internal control systems to understand their role, the risks that the controls are intended to mitigate, the operations which must be controlled and the depth of the controls they are required to perform;
- ensuring that staff members under their responsibility follow regular training on ethics and integrity, ethical conduct and internal control, risk management and fraud prevention;
- when in a line management function, being the first contact point for reporting any red flag of fraud by staff under their line management.

2.5. Ex ante and ex post verifying agents

In accordance with the code of professional standards for verifying agents, their mission and roles are to support the authorising officer by ensuring that internal control objectives including prevention, detection, correction and follow-up of fraud and irregularities are met. Their role includes carrying out the controls and checks assigned to them for prevention, detection, correction and follow-up of red flags of fraud, as defined in the internal control systems and strategies established by the Executive Director.

To this end, verifying agents shall:

- implement adequate controls to detect and report in a timely manner any red flag of fraud;
- have sufficient knowledge of the overall organisational structure and the internal control systems to understand their role, the risks that the controls are intended to mitigate, the operations that must be controlled and the depth of the controls they are required to perform;
- carry out their duties impartially, objectively and with integrity; desist from taking any action which may bring their own interests into conflict with those of the Agency; where a potential or real conflict of interest arises, refrain from the act of budget implementation concerned and inform their hierarchy who assesses if there is a conflict of interest;

- maintain the independence of the verification function by ensuring that the verifiers' opinions and the RAO's reasons for overriding them are formally recorded (e.g., via exception reporting);
- attend compulsory training on exceptions, non-compliance, and fraud prevention.

2.6. Heads of centre and unit

All heads of centre and unit shall ensure that internal control processes are developed and managed at their respective levels. When internal control deficiencies are identified affecting fraud prevention and detection controls, they shall be reported to the Internal Control and Compliance Unit in a timely manner together with the proposed corrective actions. Heads of centre and unit shall report to their immediate superior, the Executive Director or the Management Board, or to OLAF or the EPPO directly should they detect any red flag of illegal activity, fraud or corruption which may harm the interests of the EU, including acting without declaring conflicts of interest and/or other acts of serious mismanagement.

Heads of centre and unit shall ensure that staff members assigned the responsibility to execute specific controls have sufficient knowledge of the overall organisational structure and the internal control systems to understand their role, including the risks that the controls are intended to mitigate, the operations which must be controlled, and the depth of the controls required from each of them.

To this end, heads of centre and unit should ensure that staff members under their responsibility follow the compulsory training on ethics and integrity, respect of dignity and fraud prevention, and are fully aware of their internal control responsibilities, and in particular escalation mechanisms, whistleblowing regulatory communication channels and how and to whom to report serious irregularities.

2.7. Staff

The staff has to adhere to the Agency's professional and ethical standards¹⁸ and always act ethically and with integrity. Staff should refrain from any activities or actions which might reflect adversely and are not compatible with the responsibilities of the member of the Agency's staff and bring the Agency into disrepute.

The staff has an obligation to report to their immediate superior, the Executive Director or the Management Board, or to OLAF or the EPPO directly in the event of detecting any red flag of illegal activity, fraud or corruption which may harm the interests of the EU, including acting without declaring conflicts of interest and/or acts of serious mismanagement.

Before reporting, staff members are strongly advised to read the Agency's whistleblowing guidelines¹⁹ and familiarise themselves with the rights and obligations of whistleblowers. In order to better understand whistleblowing processes and procedures, as well as to better understand their rights and

¹⁸ *Inter alia*, with the guidance on ethical behaviour in Annex 3 to Decision of the Executive Director No 13 of 27 January 2023 on the policy on the prevention and management of conflicts of interest, related post-employment and ethical guidance, and the role of ethics correspondent (ED Decision No 13/2023).

¹⁹ Management Board Decision No 57 of 20 September 2019 establishing the EASO's Guidelines on Whistleblowing (hereinafter 'MB Decision No 57').

obligations, all staff members shall attend compulsory training on ethics and integrity, respect and dignity, and fraud prevention. All staff members involved in budget implementation tasks shall also attend regularly²⁰ compulsory training on internal control, risk management and fraud prevention for staff involved in financial circuits (i.e., data entry agents, initiating agents, verifying agents and responsible authorising officers).

Staff have the duty to report any internal control weaknesses, non-compliances, and exceptions identified in accordance with the modalities adopted by the Executive Director as the Authorising Officer.

2.8. Risk management correspondents

Risk management correspondents act as the contact point between their unit or sector and the Internal Control and Compliance Unit supporting the general risk management process. They are responsible for assisting their head of unit or head of sector in triggering discussions on risks within their unit or sector to identify and assess the risks that could adversely affect the achievement of the unit or sector's objectives, as well as proposing a risk response for every identified risk.

They need to have the necessary skills and professional experience in internal control and risk management, and should attend customised training regularly, including on fraud prevention and fraud risk management.

Following endorsement by the senior management and the Executive Director and before adoption by the Management Board, risk management correspondents are presented with the outcome of the fraud risk assessment exercise and draft anti-fraud strategy by the Internal Control and Compliance Unit.

2.9. Ethics correspondents

Ethics correspondents act as the single point of contact for all staff inquiries related to ethics²¹, e.g., by providing guidance on situations giving rise to conflicts of interest, such as, gifts and hospitality, invitations to publish or to give speeches or lectures, fees and honoraria, honours and decorations, engaging in outside activities²², and on occupational activities after leaving the service of the Agency. They do not form part of the formal whistleblowing channels and are only expected to provide staff members with the required guidance on any questions they may have related to this subject matter.

Ethics correspondents also ensure consistent handling of similar ethical situations by facilitating communication with internal stakeholders, such as the Human Resources Unit, the Legal Services Unit, and the Internal Control and Compliance Unit. Moreover, they play a key role in promoting awareness of ethics throughout the Agency.

²⁰ At least every five years.

²¹ Pursuant to Article 4(2) of EDD Decision No 13/2023.

²² An 'outside activity' as referred to in Article 12b of the Staff Regulations means any activity, paid or unpaid, that: (i) is not part of the staff member's duties, including those covered by a mission order or an authorisation to travel for work-related reasons such as giving a speech or a presentation, and (ii) cannot reasonably be considered a hobby or leisure activity.

Ethics correspondents need to handle staff queries confidentially. This confidentiality does not, however, entail exoneration from the applicability of the provisions of the Staff Regulations. If, for example, in the course of their duties, an ethics correspondent becomes aware of a serious irregularity, it is their duty to apply Article 22a of the Staff Regulations relating to whistleblowing, and to report the irregularity.

To promote consistency of ethical decision-making throughout the Agency, ethics correspondents must complete and adhere to a training map established by the Head of the Human Resources Unit. This programme shall include, at a minimum, modules on ethics and integrity, ethical conduct, respect and dignity, and training on internal control and fraud prevention.

2.10. Confidential counsellors

Confidential counsellors operate within the context of the informal procedure outlined in the Agency's policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment²³ and do not form part of the formal whistleblowing channels.

Confidential counsellors are strictly bound by confidentiality. They shall not report any information to any colleague and cannot act without the consent of the complainant unless in cases of emergency or serious health risk.

2.11. Legal Services Unit

The Legal Services Unit is responsible for providing, on request of the Executive Director, legal advice to the Executive Director, Deputy Executive Director and RAOs on any potential cases of fraud, corruption, and any other illegal activities, as well as supporting the OLAF and EPPO correspondent²⁴ by:

- performing a preliminary evaluation to determine if an internally reported allegation or a possible case of fraud has *prima facie* grounds for a further, more thorough investigation and/or for a potential criminal offence against the EU budget;
- managing any requests for information from OLAF or the EPPO in relation to pre-selection cases (internal coordination, collection of information, preparation of the file, internal circulation);
- managing any requests for information from OLAF or the EPPO in relation to ongoing investigations (internal coordination, collection of information, preparation of the file, internal circulation);
- preparing files to bring matters to the attention of OLAF or the EPPO (internal coordination, collection of information, preparation of the file, internal circulation);
- reporting to control bodies on ongoing OLAF or the EPPO cases;
- supporting the implementation of OLAF recommendations (disciplinary proceedings, recovery of pecuniary liability, etc.).

²³ Management Board Decision No 50 of 16 July 2019 on the EASO's policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment (MB Decision No 50).

²⁴ Pursuant to Article 4(1) of ED Decision No 41/2024.

2.12. Human Resources Unit

The Human Resources Unit ensures compliance with the provisions of the Staff Regulations and relevant articles of the CEOS, the Agency's policy on the prevention and management of conflicts of interest and the related guidance on post-employment rules and procedure²⁵. The Unit raises staff's awareness on ethical matters, organises information sessions and training, as well as implements other staff awareness-raising measures.

3. External bodies

3.1. Internal Audit Service

The Commission's Internal Audit Service is the Agency's internal auditor²⁶ and provides independent, objective assurance and consultancy services designed to support senior management, the Executive Director and the Management Board by adding value and improving the Agency's operations. It assists the Agency in achieving its objectives by bringing a systematic and disciplined approach to assessing and improving the effectiveness of risk management, controls, and governance processes.

The Internal Audit Service conducts its activities in accordance with the Internal Standards for the Professional Practice of Internal Auditing, which require it to consider fraud when performing audits. Therefore, when selecting and conducting audits, the Service considers fraud risks and the manner in which they are managed by the Agency, even if fraud detection and investigations are not the objective of its regular audits.

Moreover, the Internal Audit Service also reports any suspected fraudulent activities within the Agency to OLAF or the EPPO and, as appropriate, to the Executive Director and the Management Board.

3.2. European Court of Auditors

The European Court of Auditors is the external auditor²⁷ of the Agency. Its work focuses on the EU's financial reporting, as well as on the implementation of its budget and policies. Although it is not mandated to investigate cases of suspected fraud against the Agency's and the EU's financial interests, it contributes to combatting fraud against the EU budget by performing financial, compliance and performance audits. Each audit type has different objectives and addresses different questions but the Court's auditors report to OLAF or the EPPO any red flags of fraud they detect.

²⁵ Pursuant to Annexes 1 and 2 to ED Decision No 13/2023.

²⁶ Pursuant to Article 78(2) of the Agency's Financial Regulation.

²⁷ Pursuant to Articles 254 to 259 of Regulation (EU, Euratom) 2018/1046 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, (OJ L 193, 30.7.2018, p. 1), as applicable to the Agency by virtue of Article 104(3) of the Agency's Financial Regulation.

The European Court of Auditor's audit reports set out clearly and concisely its findings, conclusions, and recommendations, together with the replies of the Agency. These help ensure that the transparency of the audit process makes an important contribution to the EU's accountability chain. The European Court of Auditors takes into account the material level of error in order to issue either a clean, qualified or adverse opinion:

- a clean opinion means the figures present a true and fair view and the payments are legal and regular and follow the rules of financial reporting;
- a qualified opinion means that the auditors cannot give a clean opinion, but the problems identified are not pervasive, i.e. they are not present in the entire population;
- an adverse opinion indicates widespread problems.

The audit reports are used by the European Parliament and Council within the annual discharge process to hold the Agency to account in terms of its management of the EU budget by issuing an annual opinion on the reliability of the Agency's annual accounts and on the legality and regularity of the annual payments.

In addition, the European Court of Auditors might perform dedicated audits of fraud prevention or detection systems. It might also issue opinions on Commission proposals for new or revised legislation on matters relating to fraud.

3.3. European Anti-Fraud Office²⁸

OLAF conducts administrative investigations into irregularities and fraud affecting the EU's financial interests and serious misconduct by the Agency's staff. It may carry out investigations including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU.

3.4. European Public Prosecutors Office²⁹

The EPPO investigates, prosecutes, and brings to judgment crimes against the EU budget, such as fraud, corruption, or misappropriation of EU funds or assets by the Agency's staff.

²⁸ Established by Commission Decision (1999/352/EC, ECSC, Euratom) of 28 April 1999 establishing the European Anti-fraud Office (OLAF), (OJ L 136, 31.5.1999, p. 20), as amended. More details available at https://anti-fraud.ec.europa.eu/index_en.

²⁹ Established by Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), (OJ L 283, 31.10.2017, p. 1). More details available at <https://www.eppo.europa.eu/en>

Annex 2

Escalation mechanisms

The Agency shall counter fraud and any other illegal activities and have deterrent measures in place. Among them an obligation for the Agency and its staff to report serious irregularities (i.e., any illegal activity, fraud, corruption, or serious professional wrongdoings which may harm the interests of the EU) without any delay. In order to do so effectively, the establishment and promotion of clear reporting mechanisms is essential.

In this regard, the Agency has developed whistleblowing guidelines³⁰ facilitating safe reporting of suspicions of fraud and defining the rights and obligations of whistle-blowers.

The whistleblowing guidelines foresee reporting possibilities to the immediate superior, Executive Director, Chair of the Management Board and OLAF. The Agency's Financial Regulation, and in particular Article 45(12), also refers, *inter alia*, to the EPPO as another whistleblowing reporting line.

Figure 2. Regulatory whistleblowing internal channels in the Agency



The principal whistleblowing channel in the Agency is the immediate superior/line manager. However, staff members also have a choice to use other whistleblowing reporting channels as shown in Figure 2, if they consider it to be useful to bypass the normal hierarchical chain of command. The information reported through the reporting channels above shall be made in writing.

When staff become reasonably concerned about fraud related matters, they are encouraged to follow the guidelines outlined in Figure 3. Examples of red flags of fraud are available in Annex 1 to IG-009³¹.

³⁰ MB Decision No 57.

³¹ Internal guidance on the methodology for fraud risk management and establishment of an anti-fraud strategy (IG-009). is available at https://euaa.europa.eu/sites/default/files/2024-04/IG_009_01_Fraud_risk_management_methodology.pdf. Further updates of this document will be made available on the Agency's website in the section 'Internal Control' at: <https://euaa.europa.eu/about-us/governance-and-internal-control>.

Figure 3. Summary guidelines when a red flag of fraud is identified

DO	DO NOT
<p>✓ Read carefully the rights and obligations for whistleblowing that are specified in the whistleblowing guidelines (as per MB Decision No 57)</p>	<p>✗ Directly accuse the person(s) involved</p>
<p>✓ Seek advice from the ethics correspondents, Internal Control and Compliance Unit, or OLAF and EPPO correspondent, if necessary *</p>	<p>✗ Investigate on your own</p>
<p>✓ Voice your concern using the normal chain of hierarchical command, i.e., inform the immediate superior, the Executive Director, or the Management Board of the Agency, or OLAF or the EPPO directly</p>	<p>✗ Assume someone else has reported it</p>

* These roles are not part of the formal whistleblowing reporting channel and therefore the staff should not report red flags of fraud to them.

Any reports received are treated confidentially in accordance with the whistleblowing guidelines.

Even though harassment is considered as one of the possible forms of serious wrongdoings and falls under the definition of fraud in the Agency's anti-fraud strategy, there are different mechanisms established in the Agency to seek protection under the policy in MB Decision No 50. Requests for assistance are handled by the Agency in line with internal guidance IG-001³².

Last but not least, within 60 days from receipt of the information reported through internal whistleblowing channels, as shown in Figure 2, the whistle-blower should be given the information and indication of the period of time that is considered reasonable and necessary to take appropriate action. If no action is taken within that period of time, or if the whistle-blower can demonstrate that the period of time set is unreasonable in light of all the circumstances of the case, they may resort to external whistleblowing as provided for in Article 22b of the Staff Regulations bringing the matter to the attention of the President of either the Commission, the Council, the Parliament or the Court of Auditors, or the Ombudsman. In this case, the whistle-blower protection continues to apply.

³² Internal guidance on requests for assistance under Article 24 of the Staff Regulations (IG-001)

1. Internal escalation mechanisms within the Agency

After the whistle is blown internally, in line with the Agency's internal guidance³³ and in accordance with the EPPO Regulation³⁴, the Executive Director (or the Management Board in case the red flag of fraud was reported to them) may request the Legal Services Unit to perform a preliminary assessment to determine if an internally reported allegation or a possible case of fraud has *prima facie* grounds for a further, more thorough investigation and/or for a potential criminal offence against the EU budget. This preliminary assessment phase is independent from the whistleblowing facilities provided to staff. During the preliminary assessment, all units are expected to promptly provide the Legal Services Unit with any requested information and/or documents. At the end of the preliminary assessment, the Legal Services Unit shall draw up an assessment note for the Executive Director or the Management Board, as applicable, to decide whether the case is to be closed without further action or warrants a follow-up.

If the staff has blown the whistle to a line manager (other than the Executive Director), usually they will address it to their immediate superior/line manager who will escalate via the reporting line to the Executive Director who, in turn, will initiate a preliminary assessment of the matter as explained above. However, the line manager (to whom the staff member has blown the whistle) also has a choice to use other whistleblowing reporting channels if they consider it to be safer and/or useful to bypass the normal hierarchical chain of command.

In case the Executive Director or the Management Board decide that the case warrants follow up, it has to be transmitted without delay to OLAF³⁵ and/or the EPPO³⁶.

In accordance with Article 86 of the Agency's Financial Regulation, the European Commission has to be informed without delay on cases of presumed fraud and other financial irregularities³⁷, as well as any completed or ongoing investigations by the EPPO or OLAF, and of any audits or controls by the European Court of Auditors or the Internal Audit Service, without endangering the confidentiality of the investigations.

The Agency has the facility to use the available Commission framework contract that allows it to outsource the conduct of a forensic audit. This, however, shall be subject to prior approval by OLAF to avoid jeopardising any ongoing investigation.

Based on Article 45(11) of the Agency's Financial Regulation, if a staff member involved in the financial management and control of transactions considers that a decision they are required by their superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules which that member of staff is required to observe, they shall inform the Executive

³³ Internal guidance on administrative inquiries and disciplinary proceedings (IG-006).

³⁴ In particular recital (51) of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), (OJ L 283, 31.10.2017, p.1), ('the EPPO Regulation').

³⁵ Pursuant to Article 8(1) of 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, 18.9.2013, p. 1), as amended.

³⁶ Pursuant to Article 24(1) of the EPPO Regulation.

³⁷ The Executive Director informs the Commission either at a Management Board meeting or through the OLAF correspondent.

Director who shall, if the information is given in writing, reply in writing. If the Executive Director fails to take action within a reasonable timeframe given the circumstances of the case and, in any event, within a month, or confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to their concern, the member of staff shall inform the relevant panel referred to in Article 143 of Regulation (EU, Euratom) 2018/1046 and the Management Board in writing. The Legal Services Unit may be requested by the Executive Director or the Management Board to perform a preliminary evaluation to determine if an internally reported issue qualifies for further action by competent authorities.

2. Escalation to OLAF

Reporting fraud to OLAF can be done anonymously either by post³⁸ or online via OLAF's Fraud Notification System³⁹. OLAF can investigate allegations of fraud or other serious irregularities with a potentially negative impact for EU public funds.

Upon receipt of the report, OLAF will analyse the allegation to check various elements, including if the matter falls within its competence to act and if the information is sufficient to justify the opening of an OLAF investigation or coordination case. Depending on whether the staff members making the report have indicated in the Fraud Notification System (FNS) that they are willing to create a secure mailbox or not, OLAF may contact them to obtain clarifications and/or request further information.

Upon conclusion of this initial assessment, the Director-General of OLAF will decide whether to open an investigation or not. If it is determined that the matter reported does not satisfy the criteria for opening an investigation, it will be dismissed. If this occurs, OLAF may inform the whistleblower about this, but this is not done systematically.

If OLAF decides to open an investigation or coordination case, the investigator assigned to the case may contact the whistleblower for further information. However, unless the whistleblower is contacted directly by the investigator, there will be no communication from OLAF during the course of the investigation. There is no specific timeline for the investigator to contact the whistleblower, they may be contacted immediately or after several months. In order to protect the confidentiality of investigative processes OLAF will not, under any circumstances, provide the whistleblower with the status of the investigation. At the conclusion of the investigation, OLAF may inform the whistleblower of the action taken, if they have given OLAF a contact address.

OLAF's mandate covers all of the Agency's expenditure as well as investigations related to the Agency's staff. To this end, with regard to the EUAA's expenditure, OLAF may investigate (non-exhaustive list):

- if the expenditure has been used correctly;
- the use or presentation of incorrect or incomplete statements or documents leading to wrongful payment of funds from the EU budget or budgets managed by, or on behalf of, the EU;
- non-disclosure of required information with the same effect;

³⁸ To the mailing address: European Commission, European Anti-Fraud Office (OLAF), 1049 Brussels, Belgium.

³⁹ [Fraud Notification System \(FNS\)](#)

- misuse of funds for purposes other than those for which they were originally granted.

As regards the scope of OLAF internal investigations, the office may investigate alleged serious misconduct related to the performance of professional duties constituting a dereliction of the obligations of the staff likely to result in disciplinary or, as the case may be, criminal proceedings. Examples of matters that are subject to internal investigation include:

- non-implementation of projects for which grants have been awarded;
- irregularities in tendering procedures;
- breaches of the duty of discretion and confidentiality;
- false declarations and/or false documents;
- bringing the EU into disrepute by infringing the laws of a host country;
- taking instructions from Member States, pressure groups or other regional, supranational or international institutions;
- manipulating recruitment procedures;
- undeclared conflicts of interest;
- accepting benefits and gifts from individuals or entities and/or from pressure groups;
- irregular expenditure, such as improper use of allowances;
- actions prejudicial to the Agency.

In its investigations, OLAF seeks evidence for and against the person concerned, with a view to establishing the facts. Investigations are conducted objectively and impartially and in accordance with the principle of presumption of innocence, respect for fundamental rights as well as procedural guarantees.

3. Escalation to the EPPO

If a staff member decides to report to the EPPO, this can be done online via their 'Report a Crime' web form⁴⁰, but it cannot be submitted anonymously.

Only crimes that fall under its jurisdiction will be investigated by the EPPO, such as cross-border value-added tax (VAT) fraud involving total damages of at least €10 million, other types of fraud affecting the EU's financial interests, corruption that damages or is likely to damage the EU's financial interests, misappropriation of EU funds or assets by the staff, and money laundering and organised crime, as well as other offences inextricably linked to one of the previous categories and only if they damage, or risk damaging, the EU's financial interests.

The EPPO is competent to bring to judgement such crimes when the criminal offences have been committed, in whole or in part, within the territory of one or several participating EU Member States or by a national of a participating EU Member State, or by a person who was subject to the Staff Regulations or CEOS.

⁴⁰ [Report a crime web form.](#)



Following receipt of the report, the EPPO will assess if the reported offence falls under their authority, and if the information provided is sufficient to begin an investigation. If the criminal offences linked to the reported facts fall within the EPPO's competence, they will open and conduct an investigation without undue delay.

It is possible for the EPPO to send information to other institutions, bodies, offices and agencies of the European Union and to national authorities if the wrongdoings fall outside of the competence of the EPPO, and instead fall within their competence.

The EPPO may contact the staff member who reported the fraud if it is necessary to request clarifications or additional information, or the crime falls outside the competence of the EPPO, and the documentation provided needs to be returned to the staff member concerned. At the conclusion of the investigation, depending on the rules of the Member State(s) in which the investigation has been conducted, the EPPO may inform the staff member concerned of the outcome.

If a crime report is subsequently proven to be intentionally false or misleading, or intentionally submitted for an illicit purpose, it may lead to legal consequences for its sender, including but not limited to administrative and/or criminal sanctions.