



Anti-Fraud Strategy

Executive Summary

**Directorate General
for Humanitarian
Aid and Civil
Protection - ECHO**



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1. General context

The European Union's (EU) budget is taxpayer's money used to implement the adopted policies. Fraud and corruption involving EU funds have a particularly negative impact on the EU financial interests, EU's reputation and the implementation of EU policies including the fulfilment of the defined objectives.

Prevention and detection of fraud and irregularities is set out as an objective of the internal control architecture as stipulated by the Financial Regulation¹ and is recognised as a key governance requirement within the European Commission.

Taking into consideration its specific working environment, ECHO takes the risk of fraud and corruption very seriously. In this sense, a set of measures aiming at minimising this risk are embedded in ECHO's control architecture. Additionally, procedures on the handling of fraud allegations are in place allowing for proper communication and follow-up of allegations and cases of fraud, corruption and other serious wrongdoings².

This document summarises the anti-fraud strategy of ECHO describing the conceptual framework, the identification of fraud risks, the objectives, the anti-fraud measures already in place, and an action plan aiming at increasing the efficiency and effectiveness of the anti-fraud related activities.

2. Conceptual Framework

Definition of fraud and irregularity

Irregularity is defined as any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have the effect of prejudicing the general budget of the Communities³ or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities⁴, or by an unjustified item of expenditure.

Fraud is defined as any intentional act or omission designed to deceive, resulting in the victim suffering a loss and/or the perpetrator achieving a gain. It includes internal and external misconduct. The intention to deceive is the key element which distinguishes fraud from irregularity⁵. Fraud covers any infringement of the financial interests of the EU as defined by the 'Convention on the protection of the European Communities' financial interests⁶, namely, in respect of expenditure, any intentional act or omission relating to:

- The use of presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the EU budget or budgets managed by, or on behalf of, the European Union;
- Non-disclosure of information in violation of a specific obligation, with the same

¹ Article 32 2(d) of the Financial Regulation applicable to the general budget of the Union, in which prevention, detection but also correction and follow-up of fraud and irregularities constitute an objective of internal control

² Further referred as Fraud

³ Relabelled as EU budget

⁴ Relabelled as Union

⁵ Both shall be distinguished from "corruption", which is the abuse of power for personal gain leading to the detriment of the set objectives. This personnel gain should not only be seen from a financial perspective (Fraud) but also it may be translated into power, influence, sexual abuse, etc.

⁶ Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, OJ C316, 27/11/1995, p0049-0057.

- effect;
- The misappropriation of such funds for purposes other than those for which they were originally granted.

Fraud can involve a reputational risk in addition to the financial impact. Therefore, many instances of fraud can already be considered as critical risks⁷ if: they may result in critical intervention at political level (Council/Parliament) regarding the Commission's performance; they may result in infringement of laws; they may result in material financial loss; or they may seriously damage the European Commission's image and reputation.

In principle fraud is a penal law qualification given by a judge. For the purpose of drafting an anti-fraud strategy, detection of fraud means the detection of facts or highly suspicious circumstances that suggest fraud may be taking place.

Risk of Fraud

In the Commission, a risk is defined as 'Any event or issue that could occur and adversely impact the achievement of the Commission's political, strategic and operational objective. (...)'

There is a risk of fraud in particular when there is a serious vulnerability in a process, a file, a document, that may give rise to a potential fraud: for example, absence of donor coordination to avoid double funding or a false signature in a contract.

Pre-conditions that facilitate fraud are: incentives that encourage someone to engage in fraudulent transactions; availability of multiple opportunities for personal enrichment; access to and control over the means of fraud/corruption; limited risks of exposure and punishment. The more of these pre-conditions are met the higher the risk of fraud.

3.ECHO Context

ECHO aims at saving and preserving life, preventing and alleviating human suffering and safeguarding the integrity and human dignity of populations affected by natural or man-made disasters.

ECHO's mandate encompasses humanitarian assistance and civil protection, the two main instruments at the European Union's disposal to ensure rapid and effective delivery of EU relief assistance to people faced with the immediate consequences of disasters.

Humanitarian aid and civil protection is delivered in difficult environments characterised by unpredictability, volatility, insecurity and problematic access to affected people, which makes proper implementation a true challenge.

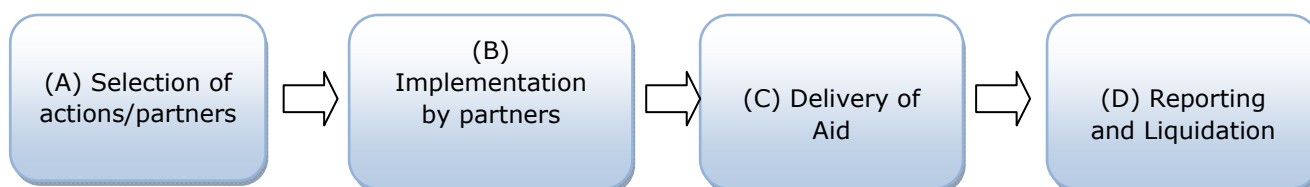
⁷ Communication to the Commission from Ms Grybauskaitė in agreement with the President and Vice-President Kallas, 'Towards an effective and coherent risk management in the Commission services', of 20 October 2005 (SEC(2005) 1327).

4. Fraud risk screening

The key inherent risks of ECHO's policy environment are:

- Humanitarian aid and Civil Protection operate in difficult environments characterised by unpredictability, volatility, insecurity and problematic access to affected people, which may lead to situations where the proper on-the-spot control may be affected;
- ECHO humanitarian partners are making use of local implementing partners on a regular basis. These organisations may have less solid administrative capacities and less robust internal control set-ups. The lack of appropriate supervision by ECHO Partners may lead to a higher risk of fraud;
- Non-compliance with European Commission' financial and FPA/FAFA⁸ rules concerning actual eligible costs due to (un)intentional errors;
- Excessive dependence of partners on EU funding which may increase the risk of cost overcharging;
- Reputational risk even with errors of negligible or no financial impact which may affect the fulfilment of ECHO's mandate.

The following diagram illustrates four stages of the value chain of ECHO operations which are more prone to fraud.



The identified risks per stage are:

(A) Selection of actions/partners (e.g. false statements and/or false documents regarding operational and financial capacity, legal status, consortia; collusion with members of the contracting authority, bribes, information leaks, irregularities in the preparation of the call, selection and award; collusive tendering: bidders, offers and prices).

(B) Implementation by partners (e.g. irregular procurement of goods in the framework of the action; irregular action implementation/partial/no implementation; double funding of actions; misappropriation of assets (including financial))

(C) Delivery of Aid (e.g. diversion of Aid - also known as "extortion of aid", occurs when targeted aid does not reach the intended beneficiaries but is illegitimately taken by others. Although the effect is the same from a beneficiary viewpoint, diversion is not the same as waste or inefficient handling of actions by Partners).

(D) Reporting and liquidation (e.g. cost overcharging, such as false invoices, staff costs, double-claiming; ineligible expenditure: missing supporting documents, false

⁸ Framework Partnership Agreements with NGOs, International Federation of Red Cross and Red Crescent Societies, International Committee of the Red Cross, International Organisation for Migration (FPA) / Financial and Administrative Framework Agreement with UN bodies (FAFA)

documents, false reports, false declarations).

With regards to its **civil protection** mandate, ECHO makes use of public procurement and grant awarding in order to implement its activities. These operations entail a set of fraud risks which are, to a large extent, common to the ones previously described for Humanitarian Aid operations.

The same applies to public procurement and grant awarding launched in the framework of all other activities (EU Aid volunteers, support activities, etc.).

One of the key features of ECHO is its **worldwide network of field offices** allowing to implement its mandate in a more effective and efficient manner. This network is composed of 44⁹ offices (including Liaison offices and Antennas) and its staff totals 474 persons (153 field experts and 321 local staff)¹⁰. The management of the field offices and staff is done centrally by ECHO, including ex ante and ex post controls of expenditure incurred by the offices. Financial operations are implemented through the use of imprest accounts¹¹ operated by the EU Delegations, local bank accounts and cash liquidity for petty cash payments, and subject to the Financial Regulation. The use of local bank accounts and the management of cash liquidities at the field offices, operated by non-statutory staff, involve specific risks of fraud and irregularities, such as:

- Collusive tendering on local procurement: bidders, offers and prices (E1);
- Misappropriation of financial assets (E2).

Furthermore, the delivery of humanitarian aid may entail the **use of remote management** as an operational approach used to provide relief in situations where humanitarian access to disaster-affected populations is limited. In such cases, this involves transferring to operational responsibilities from expatriate staff to national and local employees or external partners.

From a control perspective, this affects the implementation of the control architecture since certain controls are not feasible due to the access restrictions increasing this way the risk of fraud and irregularities in such operations (Diversion of Aid, Irregular Action implementation, etc.).

The risk of **Internal fraud** - meaning the fraud and irregularities perpetrated by ECHO's staff in the framework of the implementation of its duties - is regulated and managed in the context of the EC's general provisions applicable to all EC staff (i.e. Staff regulations, etc.). If Partners become aware of the materialisation of such risk affecting ECHO funded actions, ECHO shall be immediately informed in order to minimise reputational risk and eventual financial damage.

5. Anti-Fraud Controls in place

A favourable control environment renders the implementation of controls more effective. The Commission's set of ethical values and its Staff Regulations define main principles of the expected behaviour from the staff as regards conflict of interests, whistleblowing and the handling of indications of fraud and irregularities.

ECHO adopts a zero-tolerance approach to fraud and implements a set of controls aiming at preventing the risk of fraud and effectively detecting and correcting both potential and

⁹ May 2014

¹⁰ May 2014

¹¹ Article 70 of the Financial Regulation applicable to the general budget of the Union

confirmed detected frauds. This set of controls is embedded in the ECHO's control architecture.

Controls in ECHO are designed by considering the following aspects: reactivity, proportionality and cost-benefit principles.

For each stage and/or activity, a list of controls and of risks has been established. For instance, to give a few examples:

- for the "evaluation and selection of partners", preventive measures are applied, to avoid false statements regarding operational and financial capacity, etc.);
- for the control of progress of projects, preventive and detective measures are applied, to tackle risks of double funding, irregular procurement, misappropriation of assets, diversion of aid;
- for ex-ante validation and ex-post control of expenditure incurred by ECHO offices, in addition to preventive and detective measures, also corrective ones are applied, to address risks of collusive tendering or misappropriation of financial assets.

Regarding the **use of remote management**, the Director-General has issued an instruction note¹² providing ECHO's approach to remote management and guidance to ECHO staff and partners in handling funding requests using remote management.

According to this note, "**ECHO does not fund actions using remote management, other than in most exceptional circumstances.** (...)". Such circumstances are described together with the specific criteria to be respected for funding approval. These criteria include the **use of alternative monitoring activities** in order to compensate the non-implementation of certain controls as described previously, hence reduce the risk of fraud and irregularities.

Whenever a fraud and/or irregularity is detected, a set of **corrective measures** is decided on a case by case basis by taking into consideration: the applicable regulations, the principle of proportionality, the existence of an on-going investigation by OLAF and the conclusion of such investigations. For instance:

- Termination of action or participation in action (in case of Consortia);
- Recovery of funding which may entail forced recovery and compensations;
- Suspension of all further participations through termination of partnership agreements (FPA/FAFA);
- Registration of legal entities in the EU's Early Warning System;
- Information of OLAF following the detection of alleged fraud and irregularities;

6.Strategy

The principles of ECHO's anti-fraud strategy are based on ethics, enhanced transparency, fraud prevention and detection, effective follow-up, corrective measures and good-cooperation with OLAF, other DG's and external entities.

Taking into account the fraud risk screening, the current control architecture and the established procedures, ECHO has decided to concentrate its efforts on achieving the following strategic objectives:

Objective 1: Strengthening Ethics, Integrity and Awareness

¹² Instruction note on remote management. ARES(2013)168580 – 08/02/2013

A set of measures aiming at reaching this objective are already put in place, the aim now is to complement them with additional ones in order to foster awareness to the subject of fraud and irregularities and the duty of all staff to take a proactive role in preventing and detecting fraud including fostering management's role as a facilitator.

Objective 2: Enhancing cooperation with partners

ECHO partners play a crucial role in fighting fraud. In the spirit of partnership, and as a safeguard of the EU financial and operational interests, ECHO has put in place a set controls (Assessment and audits/verifications) fostering the continuous improvement of the Partner's internal controls (ECHO C/2 External Audit has since 2006 recommended all partners to establish fraud prevention and detection strategies) and its capacity to counter the risk of fraud. On the other hand, the vast knowledge of the local contexts and the operational skills built up past experience by partners are of paramount importance for prevention and detection of fraud.

Objective 3: Reinforcing risk based controls

The control architecture currently in place includes risk based controls, for instance, the *ex post* audit strategy takes into consideration each partner's risk profile when establishing audit planning and the transaction's sample size.

Objective 4: Managing the risk of diversion of aid

Besides the operational damage it causes, implying endangering lives and the loss of public money, diversion of aid may result in high political consequences to ECHO and the European Union. This is the case when terrorist groups divert aid leading to criticism with very negative political impact.

The risk of diversion of aid requires the involvement of ECHO partners and OLAF in the exchange of views and best practices.

In parallel, ECHO will promote the use of innovative implementation and control methods such as the use of remote sensing, biometrics, cash transfer through mobile phone, etc.

Objective 5: Providing guidance and training

Preparation of further guidance on specific relevant issues and development of training offer on general and specific fraud issues allowing for capacity building and raising awareness amongst staff and ECHO partners.

7. Conclusion

The success of the anti-fraud strategy chiefly relies on the awareness and active participation of all staff – at the HQ and in the field - and cooperation of Partners, Donors and other stakeholders. Therefore ECHO is promoting anti-fraud measures by its partners and the pro-active exchange of information on the matter, in particular in cases of detecting fraud and irregularities, including on follow-up measures undertaken. Zero-tolerance against fraud and a consequent follow-up on identified cases is essential for an anti-fraud strategy to be effective and thus in containing the financial and reputational risks at stake.

