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Anti-fraud policy in the European Schools

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I. Introduction and general context

The European Schools (ES) are educational institutions 'sui generis' set up in the Member States (MS) of the European Union (EU) and controlled by the Board of Governors (BoG). The purpose of the ES is to educate together children of the European Communities¹.

The budgetary revenue of the ES mainly comes from the European Commission (EC), the EU Member States, non-Union organisations which have concluded an agreement with the ES and parents. Budgetary expenditures are mainly the remuneration of staff, maintenance of buildings and miscellaneous administrative expenses.

According to Articles 2, 4.1. and 4.2 of the Financial Regulation 2017² (FR) the ES implement the budget, complying with sound financial management principles (economy, efficiency and effectiveness) and applying **effective and efficient internal control which includes preventing, detecting, correcting and following-up on fraud and other irregularities.**

In addition, the Authorising Officer (AO) of the European Schools is required by Article 29.2 of the FR, to put in place internal control systems primarily among other things designed to prevent and detect irregularities and fraud. These articles provide an explicit legal basis for operations by the ES to combat fraud and other unlawful activities. **In this light, the ES are committed to ensure that the regulations, the policies, the rules and the procedures in place enable the effective prevention and detection of fraud.**

Administrative arrangements³ signed between the ES and the European Anti-Fraud Office (OLAF) in February 2018 enable the latter to carry out administrative investigations in the ES in the case of suspicion of fraud.

The ES have therefore decided to develop and implement an anti-fraud policy which is described in this document. This policy covers all activities within the ES and applies to all employees in the Schools and the Office of the Secretary-General of the European Schools (OSGES). It also applies to

¹ Article 1 of the Convention defining the Statute of the European Schools.

² Financial Regulation applicable to the Budget of the European Schools (2017-12-D-en-en-3)

³ Service Level Agreement OLAF-ES 06/02/2018

consultants, temporary staff, contractors and vendors and any other parties with a business relationship with the ES.

II. Objective and guiding principles

The overall objective of this anti-fraud policy is to **improve prevention, detection, investigations of fraud and sanctions/recovery** by introducing anti-fraud strategies at the ES and the OSGES.

The objective of this anti-fraud policy can be broken down into the following elements:

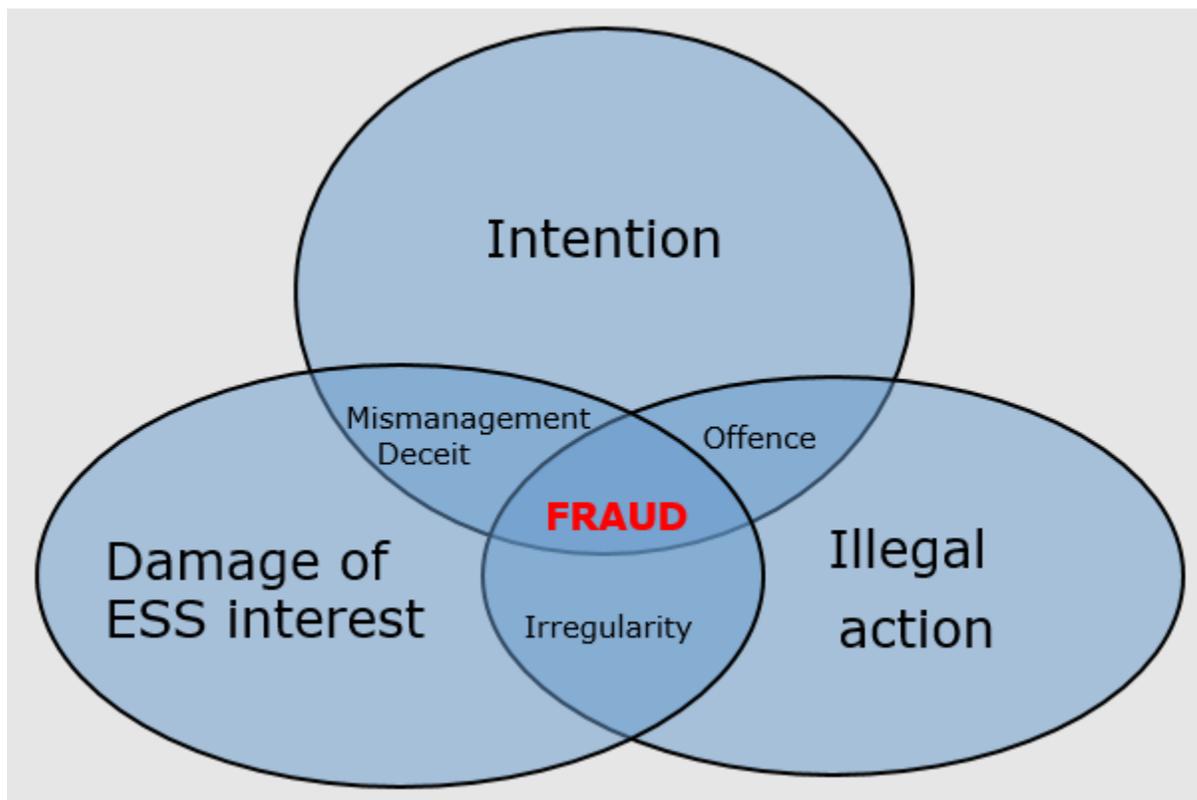
- Developing a real “anti-fraud” culture in the ES,
- Improving the techniques of fraud prevention and detection,
- Enhancing relations with the Schools and other partners as regards combatting fraud,
- Reinforcing cooperation between the ES and OLAF,
- Ensuring efficient corrective actions (sanctions and recovery).

The basic guiding principles of the ES’s anti-fraud strategy are the following:

- *Ethics and transparency* are key concerns for the ES. The ES is fully committed to ensure that these principles are properly applied. The ES staff, members of the Governing boards, external experts recruited and all external contractors must pursue the highest standards of honesty and integrity in the exercise of their duties. This also needs to be visible to the ES community and our external stakeholders.
- *Zero tolerance to fraud*: The ES will not tolerate fraud, irregularity or dishonesty and will report any instance of suspected fraud to OLAF, competent to investigate those cases.
- *Corrective actions and measures*: The ES will take all actions and adopt all appropriate measures against anyone defrauding or attempting to defraud the ES assets and resources.

III. Definition of fraud

“Fraud” covers a range of illegal acts characterised by intentional deception or misrepresentation, damaging the interests of the ES.



“Fraud, and any other illegal activity affecting the financial interests of the ES” can relate to any intentional act or omission relating to:

- The use or presentation of false, incorrect or incomplete statements or documents (presenting something as true that is known not to be), which has as its effect the misappropriation or wrongful retention of ES funds/assets.
- Non-disclosure of information in violation of a specific obligation (Withholding information when there is a requirement to disclose).

- The misuse of ES funds/assets for purposes other than those for which they were originally granted.
- The misuse of a legally obtained benefit.

Therefore, **the concept of fraud covers any infringement of the financial interests of the ES**. It also covers **misbehavior** that may not have a direct effect on the ES's financial interests, but has anyhow a reputational impact, such as forgery, concealment of material facts, security breaches of IT systems, cyber fraud, and conflicts of interests that have not been declared intentionally.

It is important to notice that irregularity is different from fraud, as it is defined as any infringement (act or omission) of a provision of law or rules with an impact on the ES financial interests. It is therefore **the component of intentional deceit which distinguishes fraud from irregularities**.

The list below (not exhaustive) gives examples of illegal acts and irregularities which could constitute fraud in the ES environment:

- Theft of cash and improper use of petty cash (e.g. retaining cash collected for school trips).
- Theft or misuse of school assets and resources (e.g. taking stationery or other school resources or assets for personal use).
- Submitting false claims (e.g. for travel which did not take place, for un-worked additional hours and overtime).
- Unauthorised purchases of equipment for personal use.
- Making payments or providing improper gifts or hospitality to a third party in exchange for something that benefits the school, or that unduly influences an action that would affect the school.
- Processing false invoices for goods or services not received and pocketing the proceeds.
- Making false entries on the payroll (e.g. inventing a fictitious employee and arranging to be paid an additional salary).
- Improper recruitment (e.g. employing a family member or individual known personally without following appropriate recruitment and selection procedures).

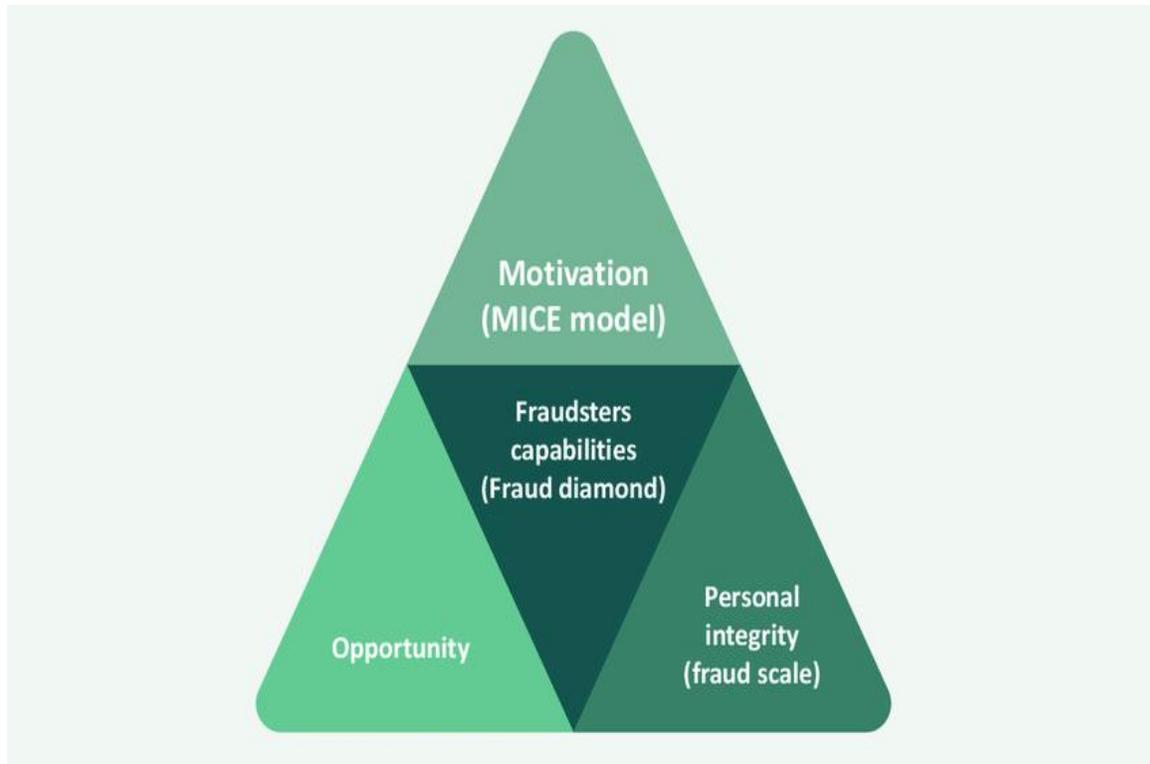
- Buying from a supplier or contractor known personally without following the required procurement procedures or declaring a conflict of interest.
- Suppliers or contractors failing to deliver the agreed goods or services but still being paid (unjustified or over payment).
- Forgery of documents (e.g. CVs to acquire a position wrongfully).

IV. Fraud triangle - why does Fraud occur?

There is no single reason why a person commits fraud, but it is usually the result of different factors, known as the fraud triangle:

- ✓ **Opportunity** refers to circumstances that allow fraud to occur. Examples of opportunities for committing fraud include:
 - Weak internal controls (poor segregation of duties, lack of supervision, poor documentation of processes...).
 - Poor/inadequate accounting policies may provide an opportunity to manipulate numbers.
 - Poor safeguarding of assets.
- ✓ **Motivation/Pressure** refers to an employee's mindset towards committing fraud. Motivation aspects, known as the 'MICE' model, could be **money**, **ideology** (committing fraud to achieve some greater good), **coercion** (individual could be unwillingly pulled into fraud by fear of threats against his safety) or **ego** (e.g.: committing fraud after an unsuccessful evaluation). Other examples of pressure could be personal financial problems, lifestyle pressure, debts from gambling.
- ✓ **Rationalisation/Personal integrity** refers to an individual's justification for committing fraud (following the misbehavior from the upper management, not being paid enough ...). From a practical point of view, observing a person's commitment to ethical decision-making can help in assessing integrity and thus an individual's likelihood to commit fraud.

- ✓ **Fraudsters capabilities:** refer to individual's required traits (e.g.: greed, weaknesses of character, dishonesty...) and abilities (e.g.: knowledge of processes and controls).



V. Anti-fraud cycle

An effective anti-fraud strategy is based on a four main components cycle (prevention, detection, prosecution, and reparation). These components are all closely interlinked and each plays a significant role in combating fraud.



V.1. Prevention

Fraud could be costly, both in terms of reputation and financial losses, but investigations are as well time-consuming, might cause disruptions and is unpleasant for everybody involved.

Prevention is therefore crucial in the fight against fraud. It is easier and more cost-effective to prevent fraud than to make repairs.

Robust and effectively implemented management and internal control systems are essential as they can dramatically reduce the risk of fraud even though they cannot eliminate it completely.

Role of internal control systems

Internal control systems could be defined as the globality of policies and procedures conceived and put in place by an organisation's management to ensure reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations
- Prevention of fraud and errors

Therefore, fraud can be minimized through carefully designed and consistently operated policies and procedures, which deny opportunities for fraud. Internal controls aiming at preventing and detecting fraud are part of those controls intended to ensure the legality and regularity of transactions. This anti-fraud policy should not, therefore, result in an additional layer of controls. It is necessary nonetheless to ensure that the internal control systems in place adequately cover the risk of fraud.

Conflict of interest

According to Article 37 FR 2017, all financial actors involved in budget implementation and management shall be prohibited from taking any action which may bring their own interests into conflicts with those of the Schools or of the contracting parties referred to in the convention defining the statute of the European Schools.

A conflict of interest occurs when the impartial and objective exercise of the functions of a financial actor or any other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

All ES staff must observe professionalism and impartiality at all times in the conduct of their professional duties, and avoid to be biased in favor of any third party. The ES guidelines on ethics and integrity (2022-06-D-23-en) give a framework for ethic rules/standards to be observed by the ES staff members.

Job mobility

Mandatory mobility is required for management functions as well as sensitive functions:

- According to the rules for the appointment of the Secretary-General (SG) and Deputy Secretary-General (DSG), the terms of office shall be three years renewable once.
- The term of office of Directors shall be nine years, with a possible extension by one year in the interests of the service, as stated in the implementing regulations for the appointment and Evaluation of Directors.
- Concerning the sensitive functions of the Deputy Directors for Finance and Administration (DDFA), the length of secondment shall not exceed five years in the same school. On the request of the Director concerned and taking into account recent results of internal and external audits, a further prolongation of the secondment to the same school for a period of a maximum of three years may be granted by the SG in agreement with the seconding authority, under the conditions that mitigating controls or desensitizing measures related to the sensitive tasks to be accomplished by the DDFA are in place (Art 29 of Regulation for Members of the Seconded Staff of the European Schools – 2011-04-D-14).
- The appointment of the local accounting correspondents (LAOC) and their back-ups were limited to a maximum of 3 years according to the BoGs' decision of 2015. In December 2018, the BoGs decided to establish a transitional period of a maximum duration of 5 years. An initial appointment for a period of 3 years was advised, which may be subsequently extended by the Administrative Board upon proposal from the Authorising Officer by delegation (respecting, in any case, the maximum of 5 years set out by the BoGs).
- As the contracts of locally recruited managerial staff cannot be limited in time, mobility is at least promoted for these employees (Art. 32 of the Service Regulations for Locally Recruited Managerial of the European Schools – 2020-04-D-23).

V.2. Detection and notification of a suspicion of fraud

No system of preventive measures can guarantee that fraud will not occur. Policies and procedures should be in place to detect and highlight irregularities and fraud.

For the purpose of this anti-fraud strategy, detection of fraud means **the detection of facts or highly suspicious circumstances** that could suggest fraud may be taking place.

Any ES staff member who, in the course of his/her performance of duties, encounters a possible case of fraud, either external or internal shall, without delay, report the failure according to the reporting procedures stated in the Memorandum related to guidelines on whistleblowing in the European Schools (2022-04-M-2-en-1).

There is no need to have evidence of fraud to report the case, as long as there is a suspicion that it could be a case of fraud or serious wrongdoing. Superiors and at a later stage OLAF will analyse and evaluate, if the case deserves further investigations.

The SLA signed between the Secretary-General of the European Schools and OLAF in 2018 details the collaboration in case of fraud in the European Schools.

The systematic use of red flags and their integration in processes allows for more efficient detection of irregularities and fraudulent cases.

Red flags

Red flags are warning signals, hints or indicators of possible fraud. The existence of a red flag does not mean that fraud exists but that a certain area of activity needs extra attention to exclude or confirm potential fraud.

It is important that all ES staff and management are aware of the warning signs that might indicate that a fraudulent activity takes place.

In order to enable prompt detection of fraudulent activity, the following examples are a few pointers of sort of things that might give cause for concern and possibly indicate fraudulent activity. It is important to note that any of these on its own may be perfectly innocent, however a combination of the factors may give cause for concern:

- Changes in behavior (e.g. staff appear under stress without excessive workload, defensiveness, inability to relax...),
- Sudden increase in wealth (e.g. exotic holidays, new cars, home improvements...), those committing fraud rarely save the proceeds,
- Failure to declare a conflict of interest,
- Refusal to take holidays,
- First to arrive and last to leave,
- Does not allow anyone else to undertake their work,
- Refuses promotion,
- New staff leaving quickly.

The ES acknowledge the importance of having a list of red flags available and up to date when implementing the budget, in particular activities concerning procurement and administrative expenditure since it is considered to be a very useful tool to help staff preventing and detecting possible cases of fraud. It is therefore important to increase sensibility of ES Staff towards these warnings, both for existent staff and for newcomers dealing with the implementation of the budget of the ES.

V.3. Investigation-prosecution

It is important that all staff members of the ES recognize the unpredictability of fraud or irregularity and the disruption which it may cause once identified. When fraud is suspected, investigations will seek to:

- Prevent further losses
- Establish and secure evidence necessary for criminal and/or disciplinary action
- Recover losses
- Take appropriate action against those who have committed fraud

According to Article 96 FR 2017, the European Anti-Fraud Office has the power to carry out administrative investigations in the ES, including the right of access for inspection in the case of fraud and other irregularities.

In this regard, a SLA was signed in 2018, between OLAF and the ES to provide a structured framework for co-operation and facilitate the timely exchange of information between the two institutions in investigating fraud.

V.4. Sanctions and recovery/reparation

Sanctions and recovering losses are major objectives of any fraud investigation. The ES will streamline and reinforce the use of financial and /or administrative penalties in the event of serious irregularities, fraud and corruption, in compliance with the existing legal framework.

In order to increase the deterrent effect of disciplinary sanctions, the outcome of disciplinary proceedings shall be communicated more effectively, while respecting the fundamental rights of the persons concerned and data protection.

VI. Means and resources

For several years, the ES have already put in place robust internal control systems with the following most relevant policies and procedures

- *Description of roles and responsibilities:* by having an organization chart with a clear picture of the different responsibilities. Article 65 FR 2017 relating to the establishment plan require each Schools and the OSGES to establish a table of staff as well as an organizational chart with a diagram of the organization of the departments. In addition, internal control standard 7 “operational structure” assesses whether the organizational structure supports effective decision-making by suitable delegation of power.
- *Description of procedures and reporting of exceptions:* processes are described and documented in procedures and manuals and made accessible to all staff members. In addition, any exception/breach of a rule, regulation and decision is documented and reported to the AB as well as to the Internal Control Capability Unit (ICC) for a proper follow-up of exceptions.
- *Risk assessment:* the objective is to identify and assess potential risks that could affect the achievement of the ES objectives. Since December 2015, a formal risk management system is in place to monitor the most important risks, prioritize and follow-up activities as well as action plans to reduce them to a tolerable level.
- *Segregation of duties and four eyes principle in financial circuits:* procedures are in place to ensure that segregation of duties is respected at all time for the staff allocated to the implementation of the budget.
- *Ethics and integrity:* The updated guidelines (2022-06-D-23) are in place to promote ethics and integrity standards in the ES.
- *Derogations:* in order to implement the decisions of the BoG concerning the organization of studies and courses in the ES, procedures have been put in place to properly monitor deviations from the rules. The aim is to find a balanced approach between an attractive variety of classes/courses/subjects and the keeping under control of the related costs.
- *Service Level Agreement (SLA) with OLAF:* administrative arrangements between the ES and OLAF were signed in 2018 to provide a structured framework for cooperation and facilitate the timely exchange of information between the ES and OLAF under relevant regulations. The aim

is to ensure the effectiveness of investigations led by OLAF, to streamline and improve performance between the ES and OLAF.

- *Regular assessment of the internal control systems in place:* each school and the OSGES perform a self-assessment of the internal control systems built around the 16 internal control standards. Some control standards are assessed directly by the staff/unit responsible of the procedures or responsibilities concerned. Reporting on the effectiveness of the internal control systems is made in the Annual Activity Report of the Schools/OSGES.
- *Ex-post controls:* when defining its work programme, the Internal Control Capability Unit analyses the most relevant areas to be audited and regularly performs independent assessments of the Schools/OSGES' internal control systems. In addition, the Internal Audit Service (IAS), the European Court of Auditors (ECA) and external auditors perform controls on ES's internal control systems contributing to their improvement.

VII. Roles and responsibilities

The risk of fraud has to be addressed within the ES's whole organisation and control systems and anti-fraud measures are most effective when they become part of the regular processes and procedures. This means that all ES staff should contribute and have a basic understanding of the ES anti-fraud policy. Moreover, some individuals and groups have specific leadership roles and responsibilities identified below:

1. The Secretary-General / Deputy Secretary-General of the ES

- ✓ The SG is responsible for the adoption of this anti-fraud policy. He and his Deputy are the role model in the systematic combat against fraud.

2. Directors/Deputy-Directors/OSGES Head of Units

- ✓ All ES Directors/Deputy-Directors/OSGES Heads of unit, with their "tone from the top", promote an anti-fraud culture (duty to act with integrity and only in the ES interest) across the ES, uphold the laws and regulations and ensure that resources are used efficiently and effectively.

- ✓ They should also ensure that appropriate actions are taken in case of fraud, where necessary propose sanctions commensurate to the breach by the relevant staff member, in accordance with the reports and recommendations drawn up following investigation by the OLAF.

3. Internal Control Capability (ICC)

- ✓ The ICC is responsible for the implementation of the anti-fraud policy, follows-up actions and acts as a contact point for OLAF.
- ✓ The ICC is responsible to perform regular ex-post controls or ad-hoc checks and consider the potential for the occurrence of fraud, evaluate how the ES manage fraud risk and report significant fraud risk exposure and control issues to the Secretary-General.
- ✓ The ICC provides guidance on managing fraud risks and designs additional controls, develops training for all staff in collaboration with competent experts within and outside the ES.

4. Staff

- ✓ All ES staff members should comply with the ES anti-fraud principles, forward any reasonable concerns with regard to fraud to their immediate supervisors, in according to existing guidelines.
- ✓ They shall maintain a high level of conduct in carrying out their duties and comply with internal control, policies/procedures in place.

VIII. Anti-fraud strategic plan and actions

Considering that this is the first time the ES adopt an anti-fraud policy, the ES have decided to concentrate their efforts in achieving the following objectives:

✓ **Raising awareness amongst ES staff on the fight against fraud:**

Making staff aware of rules makes their implementation more effective. Continuing promoting a culture of correct ethical behavior and good conduct and on the fight against fraud is crucial for a more effective prevention and detection of fraud.

Objective 1: Raising awareness among ES staff on the fight against fraud and ethics	Responsible	Deadline	Indicator
<u>Action 1:</u> Promote and organize training sessions on anti-fraud concepts, whistleblowing procedures, ethics and integrity	Head of ICC	31/12/2022	Number of relevant trainings organized on the topics
<u>Action 2:</u> Create an internal control section on the eursc sharepoint and a page "fight against fraud" that will contain: <ul style="list-style-type: none"> • The anti-fraud policy • Whistleblowing guidelines • Guidelines on ethics and integrity • Document "administrative arrangements between OLAF and ES" • A link to the main parts of OLAF website 	Head of ICC	31/12/2022	Page created and updated containing the indicated points

✓ **Improve the internal procedures for fraud prevention and detection purpose:**

As already explained in this document, red flags are warnings of possible fraud and they contribute to the prevention and detection of fraud. It is therefore important to increase sensibility of staff towards these warnings, especially for the staff dealing with the implementation of the ES budget.

Objective 2: Improve internal procedures for fraud prevention and detection purpose	Responsible	Deadline	Indicator
<u>Action 1</u> : Define, in collaboration with the schools, a list of red flags in high risk areas such as procurement, payments and recruitment.	Head of ICC	31/12/2022	List of red flags available
<u>Action 2</u> : Propose for each red flag a possible control to be performed by the process owner.	Head of ICC	31/12/2023	Internal controls improved where relevant

IX. Entry into force and review

This anti-fraud policy will enter into force on 05.07.2022 and will be reviewed every 3 years.