



**Europe's Rail Joint Undertaking
Anti-Fraud Strategy 2022-2025**

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1. BACKGROUND

1.1 General context

The European Union budget finances a wide range of programmes and projects which aim at improving the lives of citizens across the EU and beyond. These funds are taxpayer's money, and their improper use directly harms European citizens and prejudices the entire European project. Cases of fraud involving EU funds not only represent direct financial harm and reduction of the impact intended to be achieved, but they have the potential of damaging the reputation of EU or its particular bodies and of undermining public trust in EU policies in general. These are the main reasons why the fight against fraud is embedded in the EU legal framework, such as the Treaties themselves or the Financial Regulation.

To provide a framework for the activities related to battling fraud, the European Commission adopted its Anti-Fraud Strategy¹ (hereafter "the CAFS"). Its currently applicable version was released in 2019, also considering the new generation of spending programmes under the Multiannual Financial Framework 2021-2027.

In the spirit of the CAFS, the former Shift2Rail Joint Undertaking ("S2R JU"), has introduced its first Anti-Fraud Strategy already in 2017, representing the JU's comprehensive framework addressing fraud issues. With the aim of making its Strategy state of the art also in the context of the JU's broader environment (Research Family, DG MOVE), and to adapt it to the internal changes (launch of the new Partnership under Horizon Europe in 2021), by means of the current document, EU-Rail has introduced its new Anti-Fraud Strategy for the period 2022-2025.

1.2 EU-Rail context

In accordance with Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe² (hereafter "the Single Basic Act" or the "SBA") the Europe's Rail Joint Undertaking ("hereafter the EU-Rail or the "JU") is the legal and universal successor of the former Shift2Rail Joint Undertaking (S2R JU), which it replaced and succeeded. The EU-Rail was established on 30 November 2021 when the SBA entered into force.

The EU-Rail Executive Director has approved the decisions adopted under the former S2R JU that will continue to apply to the EU-Rail, which included, inter-alia, the Anti-Fraud Strategy 2017-2020 (extended until 30/06/2022) which was replaced by the current document.

EU-Rail is the institutionalized European public-private partnership in the rail sector, whose main objective is to deliver a high-capacity integrated European railway network. In particular, the JU should be heading towards this goal by eliminating barriers to interoperability and providing solutions for full integration, covering traffic management, vehicles, infrastructure and services, aiming to achieve faster uptake and deployment of projects and innovations. The JU's activities are set-up around one single Research and Innovation Programme based on a system view. The Programme will be delivered by two integrated pillars - the System Pillar and the Innovation Pillar - and complemented by a Deployment Group, all together covering the full life cycle of R&I from blue sky to pre-deployment and pre-industrialisation processes.

¹ https://ec.europa.eu/anti-fraud/policy/policies-prevent-and-deter-fraud/european-commission-anti-fraud-strategy_en

² OJ L 427, 30.11.2021, p. 17–119

The System Pillar (SP) will be implemented via contracts awarded as a result of a call for tender, around three main areas: the SP Core Group, the SP expert groups and the SP – maintenance of ERTMS specifications.

The Innovation Pillar is structured as detailed below in 7 Flagship Areas (FA) leading to large scale demonstration, complemented by Transversal Topics (TT) which ensure the engineering integration of the Programme:

- FA1: Network management planning and control & Mobility Management in a multimodal environment,
- FA2: Digital & Automated up to Autonomous Train Operations,
- FA3: Intelligent & Integrated asset management,
- FA4: A sustainable and green rail system,
- FA5: Sustainable Competitive Digital Green Rail Freight Services,
- FA6: Regional rail services / Innovative rail services to revitalise capillary lines,
- FA7: Innovation on new approaches for guided transport modes,
- TT: Digital Enablers.

Being a public-private partnership, the EU-Rail activities are based on combined funding from the EU and from the private members of the railway industry. The vast majority of the JU's yearly budget (cca 97%) is spent in direct relation to its Research and Innovation Programme by means of grants and/or tenders, in the form of operational expenditure.

As EU-Rail is a European Union body, it operates within the EU rules and within the structures existing at the EU and the European Commission. In particular, the JU closely cooperates with its parent Directorates-General of the Commission – DG MOVE and DG RTD. Furthermore, EU-Rail participates in the common activities of the DGs, services and bodies engaged in the area of research and innovation, collectively referred to as the Research Family. In this respect, representatives of EU-Rail take advantage of knowledge sharing by participating in the Fraud and Irregularities in Research (FAIR) Committee, in the R&I Family Services Network of Ex ante Control practitioners (RINEC), Research & Innovation Audit Network (RIAN), and other substructures or working groups. In parallel to that, EU-Rail closely cooperates with other Joint Undertakings, making use of their similarities which enable sharing of knowledge and experience, also in the field of anti-fraud policies. The synergies between the JUs should become even more intensified and formalised by applying the provisions of Article 13 of the SBA regarding the back office arrangements, including audit and anti-fraud strategy.

The main objective of the establishment of this new EU-Rail Anti-Fraud Strategy is to reflect the start of the JU's new Research and Innovation Programme under Horizon Europe which is accompanied with some novelties, such as significantly wider application of lump sum grants that the former S2R piloted since 2018.

1.3 Terms and definitions

Essential component of an Anti-Fraud Strategy is clarifying the related terms and explaining the differences between them. This is also important with regard to setting up the Action Plan related to the Strategy, so that it is clear where exactly the focus of anti-fraud activities will be, taking also into account the specificities of EU-Rail and the generally applicable requirement of cost-effectiveness of controls.

The definition of the term **fraud** in the context of the European Union is provided in the Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law³. As defined in this legal framework, fraud in respect of expenditure can be understood as any act or omission relating to⁴:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds or assets for purposes other than those for which they were originally granted.

The Directive (EU) 2017/1371 also defines other types of deeds (criminal offences) that, similarly to fraud, affect (damage) the Union's financial interests:

- **Corruption (passive)**, meaning an action of a public official who, directly or through an intermediary, requests or receives advantages of any kind, for himself or for a third party, or accepts a promise of such an advantage, to act or to refrain from acting in accordance with his duty.
- **Corruption (active)**, meaning an action of a person who promises, offers or gives, directly or through an intermediary, an advantage of any kind to a public official for himself or for a third party for him to act or to refrain from acting in accordance with his duty.
- **Misappropriation**, meaning an action of a public official who is directly or indirectly entrusted with the management of funds or assets to commit or disburse funds or appropriate or use assets contrary to the purpose for which they were intended.

Another related term is **irregularity** which is defined in Council Regulation (EC, EURATOM) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests⁵ 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 Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

In the Commission's Anti-Fraud Strategy (and the DG MOVE Anti-Fraud Strategy as well), the following forms of misconduct are covered:

- Fraud, corruption and misappropriation affecting the EU's financial interests, as defined in the Directive (EU) 2017/1371,
- Other criminal offences affecting the Union's financial interests/EU budget, e.g., offences linked to an abuse of procurement procedures,
- Irregularities as defined in Regulation (EC, Euratom) No 2988/95, insofar as they are intentional and not already captured by the criminal offences referred to in the first two bullet points,
- Serious breaches of professional obligations by staff or Members of the Union's institutions and bodies.

To summarize, the following basic facts should be acknowledged in respect of **fraud**:

- The main characteristic of fraud is that it is not an effect of a mere mistake, but it is an intentional and deliberate deed of the fraudster, no matter if conducted actively, or by knowingly omitting an action.

³ Fraud affecting the European Communities' financial interests was defined already in 1995 by means of the respective Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interests (95/C 316/03).

⁴ For simplification purposes, only fraud in respect of expenditure is presented, while the legal framework also defines fraud in respect of revenue. However, the latter is not directly relevant with regard to EU-Rail's activities.

⁵ OJ L 312, 23.12.1995, p. 1–4

- As a result of fraud, the involved parties intend to gain an unjustified or even unlawful gain by obtaining assets or by avoiding expenditure.
- Irregularity is a broader term than fraud and not every irregularity is necessarily a result of fraudulent behaviour (if the intention is not present).
- Legally speaking, fraud is a criminal offence, hence, before a case is rightfully closed by the judicial bodies and confirming in the judgement that a fraud was actually committed, it is more appropriate to use terms such as “potential fraud” or “suspicion of fraud”. However, for the sake of simplification, the term *fraud* will be used throughout this document.

The primary focus of this Anti-Fraud Strategy and its Action Plan is on the fraud in its narrower sense, that is understanding it as deliberate deception with the aim of obtaining an advantage.

However, the measures and actions applied by EU-Rail as per this Strategy have both the ambition and the potential to cover to a reasonable extent also the other types of wrongdoings as explained above.

2. EVALUATION OF THE PREVIOUS STRATEGY AND ITS ACTION PLAN

EU-Rail has had a formalized Anti-Fraud Strategy since 2017. It was based on three main objectives, in particular:

- to maintain a culture of integrity among staff and to build capacities through training and guidance,
- to ensure a high level of reactivity in case a fraud is suspected, with the involvement of OLAF,
- to prevent leakage of sensitive/confidential information, and thus, to prevent a misuse of such unauthorised access to that information.

Integral part of the Anti-Fraud Strategy of 2017 was its Action Plan providing particular activities and measures to be carried out by the JU in order to mitigate its risks related to fraud. Ever since the Action Plan for the Anti-Fraud Strategy was established, it has been subject to regular biannual reviews. Such reviews, apart from being a follow-up of the individual actions, were also used as a means for ongoing inclusion of new anti-fraud actions and measures, and for amending the existing ones, as deemed necessary to accommodate changes in the JU’s fraud risk situation, as well as amendments in the higher-level anti-fraud policies. These policies include the European Commission Anti-Fraud Strategy, the Common Anti-Fraud Strategy in the Research Family, and the Anti-Fraud Strategy with the related Action Plan of DG MOVE.

The values of the indicators evaluating the JU’s performance with regard to its anti-fraud measures and actions have been presented continuously in EU-Rail’s Annual Activity Reports.

Based on the experience from the biannual reviews of the EU-Rail Anti-Fraud Strategy and its action plan, it can be concluded that, from the overall perspective, the three main objectives as mentioned above were being fulfilled on an ongoing basis. However, it has to be noted that, in the absence of an actual fraud case or detected suspicion of fraud, the second objective related to reactivity towards OLAF remained more in the theoretical level.

Given the specificity of fraud (it is an intentional action based on deliberate decision of the fraudster), in the area of prevention, the JU focused primarily on raising awareness of its staff with regard to potential fraudulent behaviour of the participants to the actions funded by EU-Rail or EU-Rail contractors. This included providing trainings and information sessions in the area of red flags indicating potential attempts of fraud and also on how to best detect such attempts. Similarly, with regard to prevention of internal fraud, apart from providing a strong tone at the top by the Executive Director, focus was given to dissemination of information to the staff, including reminders of potential

measures and penalties applicable against staff in cases of their misconduct or their engagement in irregularities or fraud.

In the fraud detection area, the logical assumption was applied that the existing legal framework and rules provided by the Commission, applied within the JU's day-to-day operations and standardised workflows, to a significant extent already mitigate the risk of potential fraud being undetected. To complement this, EU-Rail has paid attention to provide its staff with additional trainings and information sessions on how to detect cases of potential fraud in practice.

In the field of prevention of information/data theft possibly followed by a fraudulent misuse of such information, apart from embedding the respective safeguarding measures into the design of the deployed IT infrastructure and IT systems/tools, the JU also paid attention to the physical security of its premises. In this respect, apart from other measures, lockable cabinets continued to be at the staff's disposal as well as a shredder and a locked container for disposal of sensitive documents. Furthermore, awareness of staff members regarding the importance of protection against data theft was continuously supported by means of information sessions and trainings.

As the philosophy pursued by the Action Plan accompanying the EU-Rail Anti-Fraud Strategy of 2017 proved to be efficient, similar approach will be applied also for the current JU's Strategy represented by this document.

3. 2022 FRAUD RISK ASSESSMENT

3.1 Research Family fraud risk assessment

The 2019 Common Anti-Fraud Strategy for the Research Family (RAFS) states that *"as part of work on the next Research framework programme for 2021-2027, Horizon Europe, the Research Family is looking to create a fraud-proofing implementation system, based on the lessons learnt from Horizon 2020"*. This is in line with one of the guiding principles of the Commission Anti-Fraud Strategy, being the prevention of fraud, notably fraud-proofing of spending programmes.

In view of the preparation of its new Anti-Fraud Strategy for Horizon Europe, the Research Family jointly performed in Q2 2022 a fraud risk assessment under the leadership of the Common Audit Service of DG RTD. This assessment was focused on the risks of **external frauds** to be potentially committed in the area of **grant management**.

As a logical starting point, and as also translated into the respective action of the Research Family Anti-Fraud Action Plan, a document was drafted by the CAS summarizing the lessons learnt from actual OLAF cases involving fraud risks. These cases were closed mainly within the implementation of the 7th Framework Programme for Research and Technological Development (FP7) as well as Horizon 2020 (H2020). The main objective of this analysis was, apart from providing input for updates in the fraud risk assessment, to find out whether new patterns of fraud were detected in the last years, especially in relation to H2020.

However, it was noted that the number of H2020 cases closed by OLAF reported by the Research Family correspondents to OLAF was not sufficient to actually draw trustworthy and generally applicable conclusions about new specific fraud patterns under H2020. The observed fraud patterns were those already known from before, such as misuse or misappropriation of EU R&I funds, unreliable timesheets, inflation of costs, falsification of documents, conflict of interests, etc. Therefore, the risks identified already in the 2017 fraud risk assessment are generally considered to remain valid to date.

The risks of external fraud related to grants identified in the current fraud risk assessment include, inter alia, the following categories:

- 1) Fake proposals
- 2) Fake projects or deliverables
- 3) Fake participant/beneficiary or misrepresentation of an existing legal entity
- 4) Fake researcher or researcher actually not working on the project/action, misrepresented experience of the researcher
- 5) Falsification and misrepresentation of invoices, contracts, time records, etc. with regard to, e.g., personnel costs, costs of equipment, travel costs, subcontracting costs
- 6) Intentional inflation of costs
- 7) Fraudulent bankruptcy
- 8) Undisclosed conflict of interests with a subcontractor or fake/hidden subcontractor
- 9) Conflicting interests of an expert performing the evaluation of proposals or project reviews/audits
- 10) Double funding
- 11) Plagiarism

Most of the identified potential fraud schemes, after considering the existing mitigating measures, were assigned a **low** level of residual risk, some of them reaching the **medium** level.

It should be noted that these inherent risks are, to the respective extent, mitigated by the generally applied procedures and workflows following from the standard rules for grant management, even though these may not always be primarily aimed at fraud prevention or detection.

3.2 EU-Rail fraud risk assessment

To gain a full updated picture of the risk situation, EU-Rail performed in Q2 2022 its own qualitative fraud risk assessment focused on areas of potential internal fraud, thus complementing the above-described assessment conducted at the level of the Research Family for external fraud risks in grant management. It should be noted that apart from this specific activity, assessment of risks which EU-Rail faces, including the risks of fraud, is also subject to the general annual risk assessment exercise as well as subject to ongoing updates and follow-up. The identified risks are included in the JU's overall risk register. Addressing fraud risks is thus an integral and important component of EU-Rail overall Internal Control Framework.

As a result, the identified areas of **internal fraud** in which the JU staff could be potentially involved, or other related risk areas, are the following:

- 1) Procurements
- 2) Recruitments
- 3) Conflicts of interest
- 4) Misuse of internal information
- 5) Misuse of reimbursement schemes
- 6) Business continuity of the JU Anti-Fraud Function

The identified potential internal fraud schemes are considered to represent a **low** level of residual risk, after considering the existing mitigating measures and activities.

It needs to be complemented that the risk of fraud potentially committed by EU-Rail staff in the discharge of their duties is to a large extent regulated and managed in the context of the obligations

following from EU legal framework (EU Staff Regulations and CEOS⁶) or from obligations transposed into the provisions of JU's internal legal acts (Governing Board and Executive Director Decisions).

4. MEANS AND RESOURCES

4.1 Internal resources

Similarly to the other components of EU-Rail's overall Internal Control Framework, the effective application of its Anti-Fraud Strategy has to be based on collective efforts of all staff. However, some staff members are assigned with some specific roles and responsibilities with respect to addressing potential fraud, in particular:

The JU Governing Board

- Takes note of and expresses any recommendations, as applicable, regarding the JU anti-fraud policy, including the Anti-Fraud Strategy and Action Plan, based on information on the topic provided by the Executive Director.
- Assesses and approves, as part of the Consolidated Annual Activity Report, outcomes of the anti-fraud policy implementation and the related indicators.

The Executive Director

- Approves the EU-Rail Anti-Fraud Strategy and Action Plan.
- Approves methodological and guidance documents of the JU that contribute to fraud prevention/detection.
- Sets the tone and acts by example towards the staff in questions related to fraud.
- Communicates anti-fraud topics to the JU Governing Board, as necessary.
- If applicable, approves application of sanctions or other measures with regard to fraud cases etc.

The Heads of Units

- Contribute to raising awareness of fraud among the staff in their Units.
- Steer the designing of particular ex-ante and ex-post checks and controls aimed also at prevention/detection of fraud.
- Contribute to the risk assessment process, including the risks of fraud.
- The Head of Corporate Services contributes to the drafting of the Anti-Fraud Strategy and the related Action Plan.
- If applicable, suggest application of sanctions or other measures with regard to fraud cases etc.

The Internal Control Coordinator

- Takes primary responsibility for drafting of the EU-Rail Anti-Fraud Strategy and Action Plan.
- Steers the risk assessment process, including the risks of fraud.
- Advises on and participates in designing of particular ex-ante and ex-post checks and controls aimed also at prevention/detection of fraud.
- Performs regular reviews and follow-up of the JU's anti-fraud Action Plan.
- Organises trainings, information sessions and communicates relevant updates related to the JU's anti-fraud policy to the staff.
- Acts as JU's alternate correspondent to OLAF and EPPO and participates as member to the activities of the FAIR Committee etc.

The Chief Legal Officer

- Contributes to the drafting of the Anti-Fraud Strategy and the related Action Plan.

⁶ Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community.

- Takes part in the risk assessment process, including the risks of fraud.
- Provides advice from the legal perspective, if a suspicion of fraud occurs.
- Acts as a “person of confidence” and correspondent to OLAF.
- Is a correspondent to the EPPO and a back-up for participations in the FAIR Committee meetings etc.

In addition, other EU-Rail staff members might be involved in particular activities and measures regarding its anti-fraud policy, even if indirectly, such as for example the **IT Officer** in respect of fraud-proofing of IT systems and tools applied in the JU.

EU-Rail will continue to utilise in its day-to-day operations the **IT tools** provided by the Commission which also enable to the applicable extent to deploy measures contributing to the fight against fraud. This includes setting up access rights and financial circuits in **ABAC** in a way that allows for appropriate segregation of duties and transactions approval. Another example are checks that might serve also in relation to potential fraud prevention/detection and which are embedded in the standardized workflows performed in **Compass/SyGMA**. EU-Rail will continue to utilise the eGrants Data warehouse (formerly called the Common Research Family Data Warehouse - **CORDA**), the Framework Programmes’ central repository of data, to be able to extract and subsequently analyse grant data based on reports and statistics made available by this portal. The JU will also, as the case may be, make use of the Early Detection and Exclusion System (**EDES**) established to reinforce the protection of the Union's financial interests and to ensure sound financial management.

4.2 External resources and synergies

In addition to its own internal capacities, EU-Rail will make advantage of cooperation with external parties, as further detailed below.

European Anti-Fraud Office ([OLAF](#))

OLAF is the EU body dedicated to dealing with fraud issues, as well as other similar types of wrongdoings. In particular, OLAF carries out independent investigations into fraud and corruption involving EU funds and develops a sound EU anti-fraud policy.

EU-Rail will in its anti-fraud activities make use of methodological guidance put in place by OLAF and will ensure high level of cooperation and responsiveness towards this Office, should a suspicion of fraud or other misconduct occur in connection to the JU’s functioning, so as to facilitate a proper investigation of such cases. Should OLAF issue any financial or non-financial recommendations towards the JU as a result of an investigation, the JU would ensure their proper implementation and follow-up. EU-Rail may also seek support of OLAF in organising trainings and information sessions for its staff.

European Public Prosecutor’s Office ([EPPO](#))

This Office is responsible for investigating, prosecuting and bringing to judgment crimes against the financial interests of the EU which includes several types of fraud as well as corruption.

EU-Rail and its staff will be at the EPPO’s disposal for cooperation of any kind if requested by this Office. Even though the JU appointed its EPPO correspondents, EU-Rail acknowledges the OLAF-EPPO working arrangements which foresee that OLAF is to be primarily collecting and reviewing any allegations coming from the EU bodies and determining if they might fall under the competence of the EPPO. OLAF takes care of the administrative investigations, while the EPPO can, as applicable, work in parallel on the criminal investigation of the cases. Thus, it is generally foreseen, that all potential communications with the EPPO will be made by the JU primarily through OLAF. The communication and cooperation arrangements with the EPPO may be further specified in the future commonly at the level of all JUs.

Directorate-General for Mobility and Transport (DG MOVE)

EU-Rail will on an ongoing basis follow up on the developments within DG MOVE, being its parent Directorate-General of the Commission. More specifically, the JU will consider DG MOVE's Anti-Fraud Strategy and the related Action Plan as a source of reference and inspiration. EU-Rail will consult any amendments to its own Anti-Fraud Strategy with DG MOVE before submitting it for approval to its Executive Director. In addition, DG MOVE would be informed by the JU about any relevant fraud-related issues that might impact the assurance the DG gains from EU-Rail, being its entrusted entity.

Directorate-General for Research and Innovation (DG RTD)

As per the Commission Decision *C(2021) 4472 final of 24.6.2021 on the coordinated implementation of Horizon Europe and on the operating rules for the Common Policy Centre and the Common Implementation Centre for Horizon Europe, the Framework Programme for Research and Innovation (2021-2027)*, in order to facilitate a coordinated implementation of the Horizon Europe Programme, the Common Policy Centre (CPC) and the Common Implementation Centre (CIC) were set up. Both the CPC and the CIC are part of DG RTD. The CIC comprises, among other services, the Common Audit Service (the CAS) which was tasked also with steering the set-up and coordinating the implementation of a common research and innovation fraud prevention and detection strategy for Horizon Europe and contributing to the development of anti-fraud policy and business processes. In this respect, at the level of the Research Family, DG RTD chairs the Fraud and Irregularities in Research (FAIR) Committee.

EU-Rail will take advantage of knowledge sharing and of methodological guidance by participating in the FAIR Committee. In addition, it will reflect the Common Anti-Fraud Strategy of the Research Family in its own Anti-Fraud Strategy and the related Action Plan to make sure that the common goals are addressed, and the recommended horizontal Research-Family-level indicators are applied as well.

Auditors

Apart from the above-mentioned engagement of the Common Audit Service under DG RTD, EU-Rail will make use of the advice and recommendations with regard to its anti-fraud policy and processes potentially provided also by the Court of Auditors (ECA) and the JU's internal auditors – the Internal Audit Service (IAS) of the Commission. In this respect, EU-Rail will ensure access for IAS and the ECA to information related to the JU Anti-Fraud Strategy and to the individual cases of potential fraud, as the case may be, while respecting the legal requirements regarding appropriate treatment of such sensitive information.

Other Joint Undertakings

EU-Rail will continue to cooperate closely in the field of anti-fraud policies with other Joint Undertakings, making use of their similarities which enable sharing of knowledge and experience. This cooperation will take form of meetings and written exchanges of the respective staff members who are assigned with the anti-fraud tasks in their JU.

Furthermore, the synergies between the JUs will be formalised by applying the provisions of Article 13 of the SBA. This provision foresees establishment of back office arrangements which should include the support for audit and anti-fraud strategy as well. More specifically, in the field on anti-fraud policy, these arrangements are foreseen to take form of establishing a fraud prevention single contact point. Such contact point would, in particular, become the common coordinator between the JUs and the CAS, and represent all JUs in the FAIR Committee as well. The starting point of the process to set up these arrangements will be an initial proposal made by each JU Executive Director to their own Governing Boards at their meetings scheduled for June 2022.

External contractors

EU-Rail may make use of external contractors especially with regard to organising trainings for the JU staff, so as to possibly accommodate expert knowledge on the subject matter also from outside of the organisation and the EU bodies.

4.3 Legal and methodological means

The non-exhaustive list of the most relevant legal and methodological provisions in the context of which this Anti-Fraud Strategy of EU-Rail will be applied is provided below, as well as the list of other reference documents which were taken into account for the JU's 2022 Strategy establishment. Other relevant documents that may emerge after the adoption of this Anti-Fraud Strategy will be reflected by means of regular reviews of the related Action Plan.

4.3.1 EU level

Treaty on the Functioning of the European Union (TFEU)

Article 325 (1): *The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies.*

Council Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe (SBA)

Article 19 (4)(t) and (s) defining as one of the Executive Director's responsibilities ensuring conduct of risk assessments and risk management for the joint undertaking and protecting the financial interests of the Union and of other members by applying preventive measures against fraud, corruption and any other illegal activities

Article 30 providing provisions related to the protection of the financial interests of the members.

Regulation (EU, EURATOM) No 883/2013 (OLAF Regulation)

Establishing OLAF and its investigation powers in order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the EU and of the EURATOM.

Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations/CEOS

Article 11a (1): *An official shall not, in the performance of his duties, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.*

Article 17 (1): *An official shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.*

Article 22a: *Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Union, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Union, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) directly.*

Article 86: *Any failure by an official or former official to comply with his obligations under the Staff Regulations, whether intentionally or through negligence on his part, shall make him liable to disciplinary action. Where the Appointing Authority or OLAF becomes aware of evidence of failure, they may launch administrative investigations to verify whether such failure has occurred.*

Council Regulation (EURATOM, EC) No 2185/96 concerning on-the-spot checks and inspections

Laying down the provisions applicable to on-the-spot administrative checks and inspections carried out by the Commission in order to protect the financial interests of the Communities against irregularities.

Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests (the PIF Directive)

Establishing minimum rules concerning the definition of criminal offences and sanctions with regard to combatting fraud and other illegal activities affecting the Union's financial interests.

Commission Decision C(2021) 4472 final on the coordinated implementation of Horizon Europe and on the operating rules for the Common Policy Centre and the Common Implementation Centre for Horizon Europe, the Framework Programme for Research and Innovation (2021-2027)

Establishing, inter alia, the tasks of the common audit service in respect of steering the set-up and coordinating the implementation of a common research and innovation fraud prevention and detection strategy for Horizon Europe and contributing to the development of anti-fraud policy and business processes.

4.3.2 EU-Rail level

The EU-Rail Governing Board has approved the decisions adopted under the former S2R JU that will continue to apply to EU-Rail⁷. Thus, references to S2R JU in those legal texts and other key documents shall be construed as references to EU-Rail.

GB Decision N°7/2016 Concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Union's interests

GB Decision N°8/2016 on the accession of the JU to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by OLAF

GB Decision N°3/2018 adopting rules on the prevention and management of conflicts of interests of the staff members of the JU

GB Decision N°7/2018 adopting rules on the prevention and management of conflicts of interests applicable to the bodies of the JU

GB Decision N°20/2018 adopting Guidelines on whistleblowing

GB Decision N°11/2019 adopting the JU's Financial Rules

In particular Articles 13, 14, 19, 24, 26, 54 and 58.

GB Decision N°01/2021 adopting the Rules of Procedure of the JU's Governing Board

In particular Articles 11, 12 and Annexes.

⁷ [GB decision n° N° 02/2021](#) of 21 December 2021 on approving the list of decisions adopted by the Shift2Rail Joint Undertaking that will continue to apply for the Europe's Rail Joint Undertaking in accordance with Article 174(12) of Council Regulation (EU) No 2021/2085.

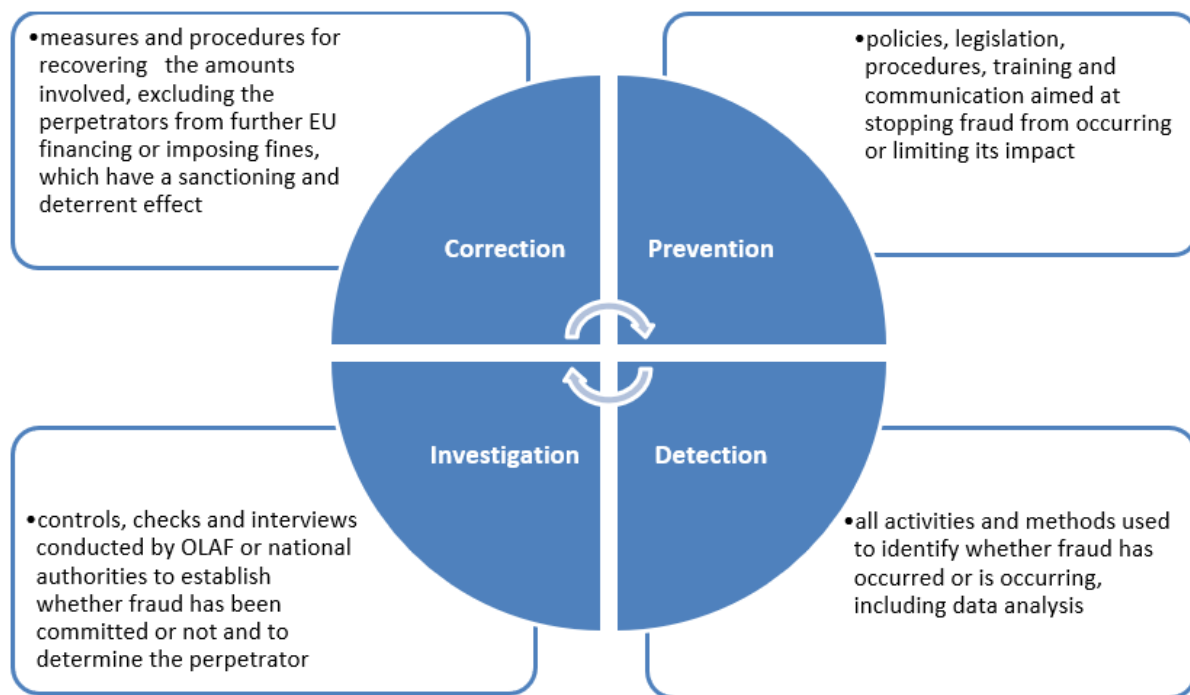
4.3.3 Other reference documents

- [2019 European Commission Anti-Fraud Strategy](#)
 - 2019 Common Anti-Fraud Strategy in the Research Family and the related Action Plan
 - 2020 Anti-Fraud Strategy and the related Action Plan of DG MOVE
 - OLAF guide “Methodology and guidance for services’ anti-fraud strategies” of June 2021
 - 2022 Research Family Fraud Risk Assessment for grants
 - Guidance of the Common Audit Service “Horizon Europe: Ex-ante Checks to Detect Potential Fraud” of June 2022
 - 2022 Analysis of the Common Audit Service “Fraud-Proofing Horizon Europe: Lessons learnt from closed OLAF cases under Horizon 2020 and FP7”
 - 2022 Joint Work Programme for the Common Policy Centre and the Common Implementation Centre
 - 2022 Annual Audit Plan of the Common Audit Service under the Common Implementation Centre
 - Annex to the Communication to the Commission C(2021) 4012 final on the Agreement between the Commission and the EPPO
 - OLAF “Guidelines on monitoring of OLAF administrative recommendations” of January 2022
 - Guidance to Commission departments on follow-up of recoveries as regards suspected fraud and other irregularities of February 2022
 - Commission guideline “EU Grants: Implementation of OLAF findings” of February 2022
 - DG BUDG Note “Guidance for improving the follow-up of OLAF financial recommendations, including the registration in ABAC of the forecasts of revenue for the related recoveries” of February 2022
 - IAS advance draft audit report for the “Audit on H2020 grant implementation and closing” of June 2022
- etc.

5. OBJECTIVES AND ACTIONS

EU-Rail Anti-Fraud Strategy for 2022-2025, similarly to the previous one, is designed with the intention to cover, to the applicable extent, all four elements of the anti-fraud cycle, namely: prevention, detection, investigation and correction. These elements are depicted in the following figure⁸:

⁸ Taken from the OLAF Guide “Methodology and guidance for services’ anti-fraud strategies” of June 2021.



Prevention

With regard to the preventive activities, the specificity of fraud needs to be taken into account, in particular the fact that it is an intentional deed based on deliberate decision of the fraudster being fully aware of breaking the rules and even of the potential consequences, if being caught. Hence, EU-Rail will in this respect focus its measures and activities on addressing the elements of motivation and opportunity for potential fraudulent behaviour, such as applying ex-ante checks, segregation of duties, by keeping the internal legal framework up to date, or by raising awareness regarding penalties and other measures following from misconduct that might have a deterrent effect.

Detection

Detection of fraud means the detection of facts or highly suspicious circumstances that suggest fraud may have taken/be taking place. Inherently, it is easier to detect the activity after it has taken place and some traces or indications may have been left behind. With respect to this element of the anti-fraud cycle, EU-Rail will continue to apply ex-post controls and checks, keep the relevant staff updated regarding the methods and tools that can be applied in performing such controls, as well as share with them state-of-the-art knowledge on potential red flags by organising trainings and information sessions. Of course, the JU will take account of particular findings and recommendations potentially resulting from audits and utilise them not only in relation to the specific case under question, but also as another source for ongoing improvements of its anti-fraud activities.

Investigation

With respect to this element of the anti-fraud cycle, EU-Rail acknowledges that any fraud investigation can only be carried out by OLAF, or potentially by the EPPO. While not directly engaging in investigations on its own, the JU will continue to provide full cooperation to these bodies and ensure high level of responsiveness to their requests.

Correction

The corrective measures are directly bound with actual cases of fraud or of its high suspicion, and, in this sense, they are closely related to and conditioned by the investigative part of the anti-fraud cycle falling primarily under the responsibility of OLAF and the EPPO. While lacking a specific experience with fraud-related corrective measures so far, should an actual case occur, EU-Rail will apply in full the

respective legal and methodological framework in terms of recovering the involved amounts of funds and imposing fines or other sanctions, as applicable.

5.1 EU-Rail anti-fraud objectives

The aim of EU-Rail in its Anti-Fraud Strategy for 2022-2025 is to set ambitious, yet realistic and attainable objectives. Hence, the focus will be on the measures that are directly manageable by the JU and that have the highest potential of actual contribution to the fight against fraud within the particular environment in which EU-Rail operates and given the resources that it has at its disposal. In this respect, due account was taken also of the principle of cost-effectiveness and proportionality.

As stated in Section 1.3, the primary focus of this Anti-Fraud Strategy and its Action Plan is on the fraud in its narrower sense, that is understanding it as deliberate deception with the aim of obtaining an advantage, as more precisely defined in the Directive (EU) 2017/1371. However, at the same time, the measures and actions to be applied by EU-Rail in pursue of its anti-fraud objectives are meant to cover, to a reasonable extent, also other types of deeds/actions belonging to a broader group of wrongdoings, as framed within the Commission's Anti-Fraud Strategy.

In addition, it should be noted that the JU applies in parallel to this Strategy other partial initiatives as well, determined to tackle misconduct or breaches of professional obligations (e.g. targeted trainings/information sessions for staff with regard to ethical issues).

Considering all relevant experience, knowledge and currently available information, and taking account of the relevant facts summarized in the previous sections of this Strategy, the main anti-fraud objectives of EU-Rail for the period of 2022-2025 will be the following:

- 1) Keeping the JU's internal legal framework related to anti-fraud policy up to date**
- 2) Fostering an anti-fraud culture throughout the organisation**
- 3) Maintaining a high level of awareness and knowledge among the staff members on the subject matter**
- 4) Ensure high level of reactivity towards OLAF/EPPO**
- 5) Prevent the misuse of internal information/data**

These objectives will be pursued by means of particular measures and actions listed in the Action Plan provided in the following Section 5.2.

In parallel to these own objectives, EU-Rail will also continue to contribute, as applicable, to the fulfilment of the common objectives defined in the Anti-Fraud Action Plan for the Research Family.

5.2 EU-Rail Action Plan

The following are the actions and measures to be applied by EU-Rail in order to fulfil its Anti-Fraud Strategy for 2022-2025.

The actions will be followed up and the Action Plan will be assessed for potential updates regularly, as a minimum, once a year. Such reviews will allow for inclusion of new anti-fraud measures, and for amending the existing ones, as deemed necessary to accommodate changes in the JU's fraud risk situation, as well as amendments in the anti-fraud policies and action plans of the European Commission (CAFS), the Research Family (RAFS), and DG MOVE.

No.	Action	Staff member in charge	Deadline / Target	Objective(s) to which the action contributes
1	The EU-Rail management strives for ensuring the appropriate overall anti-fraud culture throughout the organisation and sets the tone at the top by conveying messages to staff on the subject matter stressing the importance of acting according to the highest professional and ethical standards.	Executive Director	Continuously At least two dedicated communications per year	2, 3
2	The EU-Rail bodies are informed about the JU's anti-fraud policy and its practical application and their members are reminded of their duties related to the subject matter, most importantly on the obligation of reporting any conflicts of interests.	Executive Director Internal Control Coordinator	At least one dedicated communication per year	2
3	The EU-Rail internal legal framework related to the anti-fraud matters is regularly reviewed in order to keep it up to date and complete.	Internal Control Coordinator Chief Legal Officer	Once a year	1, 4
4	The EU-Rail staff members are regularly provided with information and updates with regard to anti-fraud matters by means of a dedicated section on the JU's intranet.	Internal Control Coordinator	Set up the dedicated section on the intranet by end of 2022, then keep it continuously up to date	2, 3
5	Regular information sessions and trainings are organised for EU-Rail staff in the subject matter covering the relevant aspects, such as: - possible red flags to prevent or detect external fraud and the related controls/checks that can be performed,	Internal Control Coordinator with the support of other staff members and external	At least one dedicated session/training per year	2, 3, 4, 5

No.	Action	Staff member in charge	Deadline / Target	Objective(s) to which the action contributes
	<ul style="list-style-type: none"> - particular examples of fraud cases that OLAF dealt with, - reminders of staff duties (e.g. declaring potential or actual conflicts of interests), - internal process for reporting a suspicion of fraud, - applicable penalties and measures in case of staff's fraudulent behaviour, - reminders of measures to be applied in the field of internal information/data leakage prevention (physical security, IT security), etc. 	parties on specific issues (e.g. Chief Legal Officer, HR Officer, IT Officer, OLAF)		
6	Ensure comprehensive and timely cooperation with the respective EU bodies (OLAF, EPPO) and swift provision of requested information and documents in cases of investigations or other activities with regard to potential fraud.	Executive Director Chief Legal Officer as OLAF "Person of confidence" and JU's correspondent to OLAF/EPPO	Ad hoc, as needed Upon OLAF's/EPPO's request	4
7	Ensure appropriate follow-up and the necessary action based on the results of OLAF's/EPPO's investigations and other activities by means of recovery of the concerned amount of funds, application of administrative sanctions and other measures.	Executive Director Head of Corporate Services Head of Programme	Ad hoc, based on inputs from OLAF/EPPO	4
8	Participate in the Research Family anti-fraud activities by contributing to common discussions, outputs and documents. Utilising of the knowledge shared within the Research Family in JU's internal anti-fraud documents, activities and trainings.	Internal Control Coordinator Chief Legal Officer (as alternate for FAIR meetings)	Take part in meetings of FAIR, RIAN, RINEC etc. Ad hoc actions, in response to particular requests from the Research Family	1, 3
9	Ensure an appropriate level of cooperation with the parent Commission Service – DG MOVE:	Internal Control Coordinator		1

No.	Action	Staff member in charge	Deadline / Target	Objective(s) to which the action contributes
	a) Consultation on the revision of the JU Anti-Fraud Strategy, b) Discussion with the DG MOVE's OLAF correspondent to share practices or information on the fraud risk environments, c) Provide DG MOVE with fraud-related information that may have a material impact on its assurance process.		a) By 30 June 2022 for the current Strategy; When applicable, for every future revision of the Strategy b) Once a year c) In case of need	

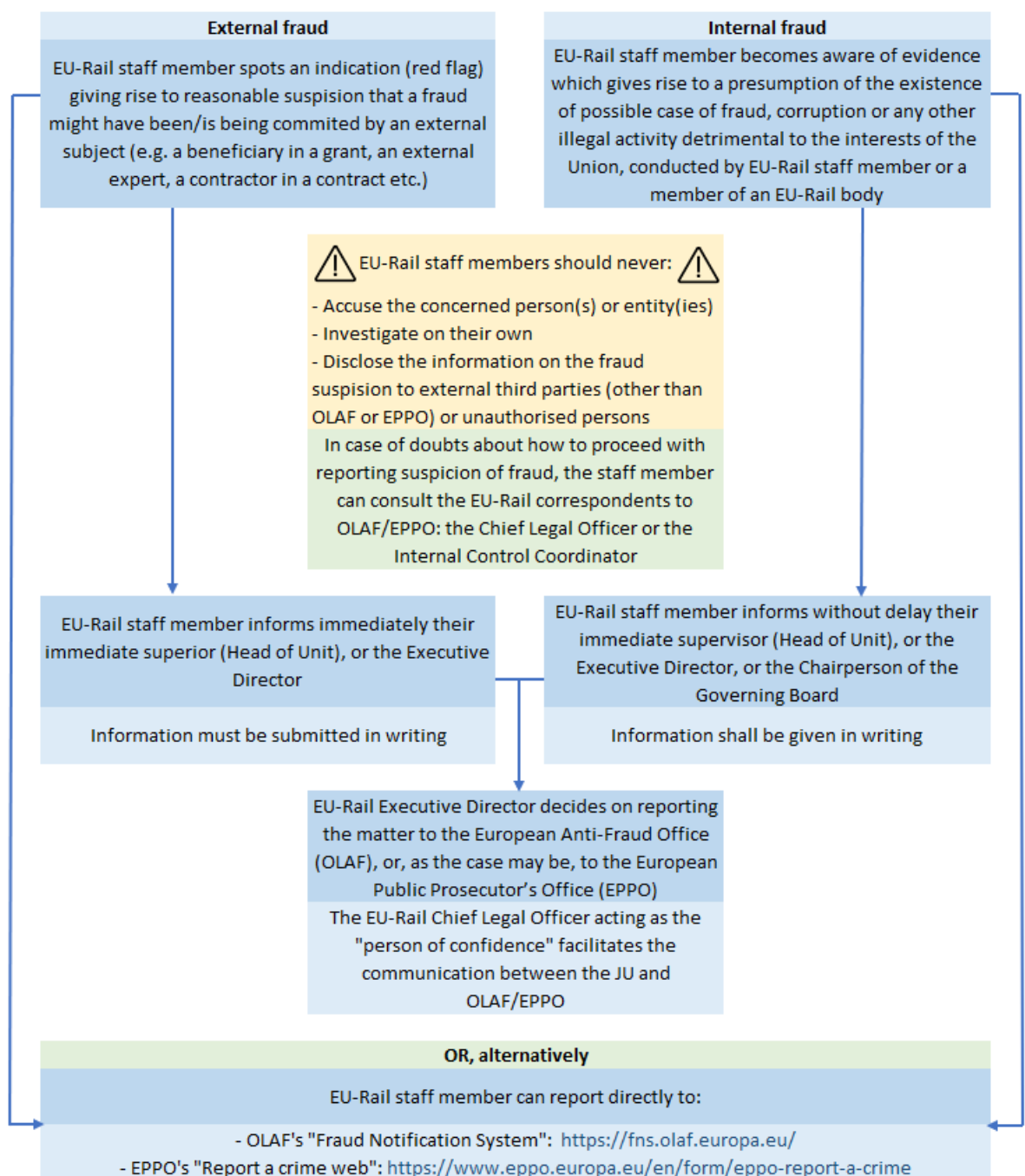
6. INDICATORS

The below table includes the indicators that will be used on an annual basis to assess the actual conduct and quality of performance of individual anti-fraud activities set in the Action Plan presented in Section 5.2 of this Strategy. The values of these indicators will be presented in the JU Annual Activity Report for the respective year. It should be noted that this set of indicators does not reflect other activities of a more horizontal nature carried out in EU-Rail which also effectively contribute to its anti-fraud policy. These activities include, as an example, ongoing risk assessment, maintenance and assessments of the JU's Internal Control Framework or an appropriate set-up and assessments of access rights ensuring adequate segregation of roles in the relevant IT systems/tools (e.g. ABAC) used for transactions execution.

	Indicator
1	Number of messages/communications on anti-fraud matters addressed to the staff by the Executive Director.
2	Number of information on anti-fraud matters communicated to the EU-Rail Governing Board and other JU bodies, as applicable.
3	Number and value of contracts subject to close monitoring or additional controls due to an assessment of a high risk of fraud.
4	New cases sent to OLAF and opened in the respective year, and cases handled by OLAF relevant to EU-Rail in that year.
5	Timeliness and completeness of JU's implementation of financial recommendations received from OLAF.
6	Time elapsed between OLAF requests for information and date when the information is provided to OLAF.
7	Number and content of performed trainings and other activities aimed at awareness-raising of the EU-Rail staff.
8	Number of cooperative activities in the field of anti-fraud policy with relevant stakeholders (e.g. FAIR Committee, other JUs) to which representatives of EU-Rail participated and contributed to.

7. ANNEX

This Annex provides a guidance on the reporting in case a suspicion of fraud is detected.





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