

RECOVERY, TRANSFORMATION AND  
RESILIENCE PLAN (RRTP)



# ANTI-FRAUD MEASURES PLAN

INSTITUTO DE ASTROFÍSICA DE CANARIAS



DECEMBER 2021

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<b>Date:</b>	28 December 2021
<b>Version/Edition:</b>	1.10
<b>Subject:</b>	Instituto de Astrofísica de Canarias (IAC)
<b>Number of pages:</b>	10
<b>Executive summary:</b>	This Executive Document outlines the need for an Antifraud Measures Plan to fulfil the requirements laid down in article 6 of HFP Order 1030/2021 of 29 September, under the terms of which is built the system to carry into effect the Recovery, Transformation, and Resilience Plan, and article 22 of EU Regulation 241/2021 of the European Parliament and Council of 12 February 2021. The measures detailed herein shall likewise be applicable to the management of all IAC finances.

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## 1. BACKGROUND

The Recovery, Transformation, and Resilience Plan (henceforth, PRTR) is designed as an instrument promoted at European Union level and aimed at both reducing the impact of the COVID-19 pandemic and transforming society with a view to modernizing the productive framework, while boosting 'decarbonization' and respect for the environment, promoting digitization, and improving the structures and resources destined for research and training, the ultimate goal being to provide society with a greater capacity to surmount such problems as the pandemic within the framework established in EU Regulation 2021/241 of the European Parliament and Council of 12 February 2021, wherein is established the Recovery and Resilience Mechanism (henceforth, RRM).

In accordance with EU Regulation 2021/241 of the European Parliament and Council of 12 February 2021 and the structure of the Plan, procedures must meet the requirements established with regard to the effective equality between men and women, territorial cohesion, respect for the environment, and the drive towards digitization. Along the same lines, mention must be made of the fight against fraud and corruption, and the proper identification of the ultimate beneficiaries of aid, as well as of contractors and subcontractors.

Order HFP/1030/2021 of 29 September was published in the Official State Bulletin of 30 September 2021. This order sets out the structure of the system for managing the Recovery, Transformation, and Resilience Plan. It is orientated towards the definition, planning, execution, tracking, and supervision of projects and subprojects; it is broken down into the distinct measures set out in the components of the PRTR.

Among these measures, article 6 of Order HFP/1030/2021 of 29 September concerning fulfilment of the obligations laid down in article 22 of EU Regulation 241/2021 of the European Parliament and Council of 12 February 2021, stipulates, with regard to the protection of the financial interests of the Union as a beneficiary of RRM funds, that Spain ensures that any deciding or executive entity participating in the taking of PRTR measures has an 'antifraud measures plan' that enables it to guarantee and declare that any funds corresponding its sphere of activity have been employed in conformity with the regulations pertaining thereto, particularly with respect to the prevention, detection, and correction of fraud, corruption, and conflicts of interest.

Construed as obligatory actions by managerial organs are the evaluation of the risk of fraud, signing of the Declaration of Absence of Conflict of Interest (DACI), and the existence of a procedure for tackling conflicts of interest. The choice of the measures for prevention and detection is left to the judgement of the entity charged with the responsibility of overseeing the measures, depending on that body's specific characteristics, always observing the necessity of guaranteeing the proper safeguarding of the Union's interests.

The Instituto de Astrofísica de Canarias (henceforth, IAC), is identified as the executive entity of the Recovery, Transformation, and Resilience Plan, under its obligation to optimize its mechanism for the prevention, detection, and correction of fraud, corruption, and conflict of interests. For this purpose, it needs to establish an 'ANTIFRAUD MEASURES PLAN' that fulfils the requirements demanded by Order HFP/1030/2021 of 29 September, which dictates the system of executing the Recovery, Transformation, and Resilience Plan.

The measures that follow are applicable not only to the particular case of the management of PRTR funds but also to the funding activities of the IAC generally.

## 2. THE IAC'S ANTIFRAUD MEASURES PLAN

### 2.1. Introduction

THE ANTIFRAUD MEASURES PLAN (hereafter, 'Antifraud Plan' or simply 'Plan') details the principles underlying the management, prevention, detection, correction, and prosecution of fraud within the IAC with regard to the implementation of its funds, particularly Next Generation funds. Also included are measures to counter or mitigate any conflicts of interest that may arise in the implementation of the said funds.

The present Plan structures the antifraud measures adopted in proportion to, and centred on, the four key elements of the so-called 'antifraud cycle' (prevention, detection, correction, and prosecution). It likewise envisages the pursuance of an evaluation by the entity of the risk, impact, and probability of the occurrence of fraud in key processes involved in the implementation of funds at the IAC, particularly with regard to the Recovery, Transformation, and Resilience Plan; its periodic updating will be biannual or annual, depending on the risk of fraud, and whether a case of fraud has been detected or significant changes occur in the procedures or personnel.

Lastly, the Plan defines and sets forth the following elements of tracking and control:

- a. Adequate and proportional preventive measures, adjusted to specific situations in order to reduce any residual risk of fraud to an acceptable level.
- b. Detection measures tailored to warning signs and definition of the procedure for its effective application.
- c. Pertinent corrective measures when there is suspicion of fraud, together with clear mechanisms for the communication of suspected fraud.
- d. Procedures for the monitoring of suspected cases of fraud and the corresponding recuperation of any EU Funds that have been misappropriated.
- e. Monitoring procedures for the updating of the processes, procedures, and controls relating to effective or potential fraud that are to be carried over to the corresponding revision of the evaluation of the risk of fraud.
- f. Procedures relating to the prevention and rectification of situations involving conflicts of interest are to be established in accordance with the stipulations set out in paragraphs 1 and 2 of article 61 of the Financial Regulations of the EU. There is a particular requirement to set up a DACI whose membership comprises those persons participating in fund implementation procedures. It is also obligatory to report to higher management the existence of any potential conflict of interest so that the corresponding decisions, depending on the case in hand, may be adopted.

### 2.2 Scope and subjective context

This Antifraud Plan of the IAC is applicable to:

1.- All members of the Governing Council of the IAC, as well as others who in one way or another, whether acting individually or as members of an organ of the IAC, are authorized to take decisions on behalf of the IAC or are involved in its internal organization and control.

2.- All other persons subject to the authority of the Directorate of the IAC who are involved in the implementation of funds; that is to say:

- a) The labour force, employed under the provisions of the law governing personnel working in the service of Public Research Organisms of the General State Administration and in accordance with the statutes of the IAC Consortium.
- b) Civil service personnel of grades defined by the law governing Public Research Organisms of the General State Administration.

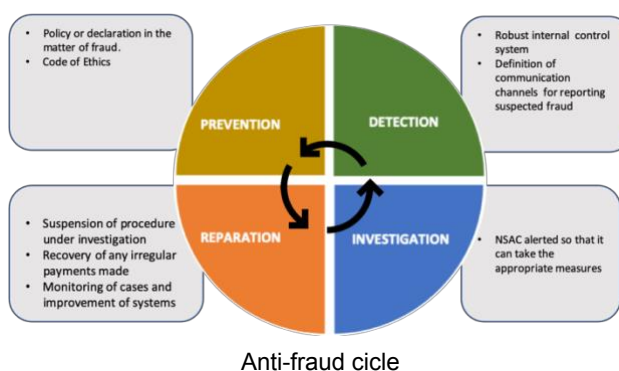


- c) Public employees and civil servants belonging to partner administrations attached to the IAC, regardless of their administrative situation with respect to their institution of origin.
- d) Personnel in the service of other institutions and entities, whether public or private, attached to the IAC Consortium.

3.- All other physical or juridical persons who in some way (through a contract or some other kind of agreement) participate in the implementation of projects in receipt of funding, or in the preparation and/or communication of information concerning the management of funds requested by competent authorities.

## 2.3 Outline of the Antifraud Measures Plan

The Plan is built around the four phases of the so-called ‘antifraud cycle’ (prevention, detection, correction, and prosecution) determining proportionate and effective measures and controls with regard to each of these phases in order to limit the risk of fraud and its effects.



The effectiveness of these proportionate measures and controls have been defined from a previous study of the risk, impact, and probability of risk in the key processes of fund management at the IAC, particularly concerning Next Generation Funds. These measures complement existing processes, procedures, and controls in force at the IAC for the correct implementation of its funds and are key elements in monitoring suspected cases of fraud that would lead to the recovery of fraudulently misdirected funds, should such cases arise.

Finally, following the guidelines of Order HFP/1030/2021, the Plan defines effective procedures for the prevention and correction of situations where conflicts of interest arise.

## 2.4. Self-evaluation by the IAC

As stipulated in article 6.2 of Order HFP 1030/2021, prior to the approval of the present document a self-evaluation questionnaire was completed, following the model given in ANEX II B.5 of the aforementioned Ministerial Order.

The information assembled in the self-assessment questionnaire served as a point of departure for the drafting of the present Antifraud Measures Plan and is included herewith in Annex I.

## 3. CONTROL MEASURES CONSTITUTING THE IAC’S ANTIFRAUD PLAN

Ten measures have been identified as part of the present Plan:

**M1)** The **antifraud policy of the IAC** (Annex II), as a manifest resolve against fraud, will be endorsed by the Governing Board in its role as the highest authority in the governance of the IAC. That policy will be communicated and disseminated throughout

the organization. The IAC's antifraud policy has zero tolerance of corruption and stipulates the setting of operational objectives concerning its fulfilment, within a specified time, of certain milestones and levels of implementation of the various controls and countermeasures against fraud at the IAC's disposal in a virtuous cycle of continuous improvement.

**M2)** Publication of the Antifraud Measures Plan and its specific dissemination among all the personnel identified in subsection 2.2 of this document; staff must be committed to observing the demands of the Plan, must fulfil those demands to the letter, and take personal responsibility with regard to the procedures, protocols, and controls in force in the exercise of their duties.

**M3)** Dissemination of the **IAC's Code of Ethics** to all personnel involved in the management of funds, particularly in the management of the PRTR, which encapsulates the principles, values, and standards of behaviour befitting of an organization as an essential pillar in the fraud prevention programme. *All staff must acknowledge such a commitment to these principles.*

As part of measures 1, 2, and 3, declarations from IAC employees that they have been informed of their duties and obligations under the Antifraud Measures Plan, the IAC's Code of Ethics, and their duties specified in article 52 of Royal Legislative Decree 5/2015 of 30 October, through which the text included in the Public Employee Statutory Law is approved, will be gathered and filed.

**M4)** In order to strengthen the effectiveness of the **complaints procedure** as a useful means of fraud detection, specific instructions will be introduced for the processing of complaints formulated in this matter, special care being taken to safeguard the rights of accused persons and to observe the strictest confidentiality concerning any complaints.

**M5)** The IAC guarantees a **clear distribution and separation of functions and responsibilities** in the various processes and subprocesses involved in the implementation of funds, with periodical updating through the efforts of the IAC's Processes Group.

**M6)** The **Conflict of Interest Management Protocol** (see Annex III of this document), which is included in the **Declaration of Absence of Conflicts of Interest** (DACI) form will act as a specific control of a preventive nature.

As part of this measure, specific actions will be implemented for:

- The communication and training of IAC staff. This aspect of training shall be incorporated in the training programme and is also envisaged as a generic preventive control.
- Collection and filing of DACI forms signed by members of the IAC participating in the management of tenders and hiring of personnel in all stages of the procedure concerned so that they expressly adhere to it.

**M7)** Strengthening of the Ethical Awareness of the IAC through an adequate annual programme of **training and awareness** with regard to corruption, fraud, and conflicts of interest that promotes the acquisition and transfer of knowledge in the matter of the identification and evaluation of risks, the establishment of specific controls, actions to be taken in cases of detected fraud, practical reference case studies, etc. Training activities—including meetings, seminars, working groups, etc.—will take place at all hierarchical levels.

**M8)** To ensure the proper functioning of the Antifraud Plan it is proposed that the present Code of Ethics Commission include among its goals the supervision of the

process of implementation and monitoring of the Antifraud Measures Plan, perhaps even renaming itself the Code of Ethics (and Antifraud) Commission.

Among its other tasks, the Commission's functions within the framework of the Antifraud Measures Plan shall be to:

- a. Monitor the process of implementation of the fraud prevention measures approved by the Directorate.
- b. Keep the Directorate informed, at least twice yearly or when requested by the Directorate, regarding the implementation and supervision of the Antifraud Measures Plan.
- c. Guarantee the dissemination of the principles and values set down in the Code of Ethics of the IAC.
- d. Raise awareness of the Code of Ethics, antifraud policy, commitment to moral integrity, and the IAC's campaign against corruption. Make known externally the Code of Ethics and the Antifraud Measures Plan to business partners and interested parties.
- e. Coordinate internal efforts with respect to the implementation and supervision of the functioning of the Antifraud Measures Plan.
- f. Analyse legislative modifications and other matters arising that might affect the Plan.
- g. Propose to the Directorate any changes to the Antifraud Measures Plan or to any of its constituent documents.
- h. Propose to the Directorate a communication and training programme regarding the Antifraud Measures Plan and carry into effect that communication and training programme.
- i. Establish and maintain adequate procedures to enable those heading projects in receipt of funds, especially Next Generation funds, from different areas of the IAC to fulfil the following objectives:
  - i. Understand the risks of fraud in the stages of proposal and/or implementation of projects, or the settling and/or rendering of the accounts of funds that they may handle or apply for, implementing policies, and taking preventive measures to minimize fraud.
  - ii. Supervise all the controls and measures designed to prevent and minimize the risk of fraud or corruption relating to the said funds.

If deemed necessary, the Code of Ethics (and Antifraud) Commission may, having given prior notice, request external assessment by independent experts, investigations pertaining to fraud and irregularities, expert opinion, etc.

**M9) Elaboration of a 'Controls and Risks Matrix' (see Annex IV of this document)** as an instrument to enable an initial evaluation and monitoring of the level of risk, and exercise of specific controls to lessen the risk of fraud, corruption, and conflicts of interest. The purpose of the matrix consists in assessing the initial probability, or percentage probability, of the occurrence of risk of fraud, corruption, or conflicts of interest by means of identifying a set of flags or signals indicating the materialization of specific risk in the various processes, subprocesses, and activities within projects in receipt of funding. It is likewise concerned with *ex post* (i.e. subsequent) assessment during the lifetime and at the termination of any funded project that raises an alert when flags or signals indicating any fraudulent activity are detected.

In the Controls and Risks Matrix are specified a set of risks of fraud, corruption, and conflict of interest affecting the preparation and presentation stages, and implementation of projects, as well as specific controls proposed for the mitigation of the risk coefficient. The following specific measure is defined in order to achieve the



setting up and correct implementation of these controls, as summarized in the designed matrix.

**M10) Documentary justification** of all operations in connection with the implementation of funds, preferably in SAP and secondarily in any other applicable 'management operational system'. Likewise, books of accounts and applications used by the IAC to record income and expenditure are considered as specific documentary evidence of the particular controls of this phase.

In particular, each administrative file must contain a full, comprehensive, and ordered account of the totality of administrative actions contained therein, also including the justification for the corresponding controls.

It is ultimately incumbent on the Ethics (and Antifraud) Commission to monitor closely the documentary justification of any proposed controls designed to prevent or mitigate the risk of fraud, corruption, or conflicts of interest.

#### **4. PROTOCOL TO BE FOLLOWED WHERE A FRAUDULENT ACT IS SUSPECTED AND MEASURES TO BE TAKEN**

The object of the protocol is to constitute an appropriate instrument for the prosecution of fraudulent or corrupt conduct, actions that put at risk the ethical principles and values enshrined in the Code of Ethics, and for guaranteeing the fulfilment of the measures and controls implemented for the purpose of avoiding or minimizing the risk of fraud, within the following framework of actions:

1. Where there is evidence for, or allegations of, fraud the Code of Ethics (and Antifraud) Commission must investigate the allegation and produce a report on the reasons for its acceptance or rejection of such allegations, and pass the report to the Director of the IAC, who shall decide on whether to pursue the matter further.

2.- On receiving the Commission's report, the Director shall adopt one of the following lines of action:

a) **Hold the allegation in abeyance** where it is found to be without foundation, where there is insufficient evidence, or the allegation is withdrawn. In any case, investigation into the allegation will resumed where any evidence of fraud is subsequently detected.

In cases where facts fail to indicate the presence of fraudulent conduct, but where, if no action is taken, fraud might later occur, guidelines for possible preventive measures to be taken may be proposed in the light of the Commission's report.

b) **Open a reserved information file and name an instructor**,<sup>1</sup> who, with regard to the fundamental rights of any persons implicated, shall carry out any opportune investigations and, when these are concluded, propose,

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<sup>1</sup> As stipulated in Article 28 of the Disciplinary Code for Civil Servants in State Administration, approved by Royal Decree 33/1986 of 10 January, 'The competent organ to initiate the procedure may gain prior access to reserved information'.

According to Article 55 of Law 39/2015 of 1 October (Common Administrative Procedure of Public Administrations), 'the competent organ may declare a period of information gathering or actions to be taken with the aim of examining the circumstances surrounding the case in question prior to initiating (or not) the procedure'.

giving reasons, the archiving of the allegation, or confirm, again giving reasons, the validity of the allegation and any relevant juridical steps to be pursued.

b.1) In this last case, the Director, after evaluating the report of the instructor/s, shall communicate its results to the the person under investigation, giving him or her an opportunity to answer the allegations.

b.2) On receiving the reply of the accused, the Director shall issue a resolution, following the instructor's proposal, and adopt one of the following measures:

i. Report the case to the relevant authorities (National Service for Antifraud Coordination, NSAC) via the channel previously described. If the case involves a criminal offence, the case shall be taken to the public prosecutor or to an appropriate tribunal.

ii. Suspend professional relations with any collaborators presumed to be implicated in the matter under investigation.

iii. Initiate disciplinary proceedings in order to apportion responsibilities for improper conduct.

iv. Make a request that the Code of Ethics (and Antifraud) Commission analyse whether the incident was an isolated one or representative of systemic fraud, with a view to the subsequent revision of the risks and controls matrix (this process to be carried out within a period of 15 days).

v. Communicate to both the Governing Board and the accused, taking care to safeguard personal data subject to legal protection, a summary of the steps taken, the facts uncovered, and the corrective or disciplinary measures adopted.

c) **Open a disciplinary file**, as stipulated in the next section (DISCIPLINARY CODE).

3. The archive of complaints received shall be in the custody of the Code of Ethics (and Antifraud) Commission.

4. The Governing Board of the IAC shall guarantee that no action be taken against persons under investigation or their against their interests, independently of the personal responsibility of any author of baseless accusations made in bad faith, or accusations made with the intention of undermining the professional reputation or good name of persons falsely accused, or of the IAC itself.

5. Throughout the internal investigatory process, the accused shall have the right to be accompanied by a lawyer of his or her choice, the right not to make a confession of guilt, the right not to make any self-incriminatory declarations, the right to silence, and the right to refuse to answer any questions put to him or her.

6. The internal investigatory process may not exceed a period of six months from the moment in which the resolution to initiate proceedings is adopted, an extension of that period being permissible for a maximum of a further six months, depending on whether the circumstances or complexity of the case render such an extension advisable.

7. Processing, communication, and subsequent notifications shall follow strictly the dispositions in Part IV of Law 39/2015 (Common Administrative Procedure of Public

Administrations).

## 5. DISCIPLINARY CODE

Civil servants and other contracted staff at the IAC are bound by the Disciplinary Code for Civil Servants in State Administration established by Royal Legislative Decree 5/2015 of 30 October, which approves the text of the Law of the Basic Statute of Public Employment in Royal Decree 33/1986 of 10 January, which in turn approves the Regulation of the Disciplinary Code for Civil Servants in the State Administration. The disciplinary code for contracted personnel shall follow to the terms laid down in the Law of the Basic Statute of Public Employment and shall be governed, where not covered by the Law of the Basic Statute of Public Employment, by labour legislation.

In conformity with what is established in the aforementioned regulations, Public Administrations shall be responsible for the disciplinary correction of infractions committed by the personnel in their service during the exercise of their functions and duties, without prejudice to any patrimonial or criminal responsibilities that may derive from such infractions.

Disciplinary action shall be exercised in accordance with the principles of legality, taking into account the types of infractions and sanctions; the non-retroactivity of unfavourable penalties and procedures (and the retroactivity of those that are favourable); proportionality, culpability, and presumption of innocence.

When the instruction of a disciplinary procedure uncovers the existence of evidence of criminality, the procedure shall be suspended and the case referred to the State Prosecutor.

In conformity with what has been presented here, one of the manifestations of the principle of legality is the regulation of disciplinary procedures with regard to the rights and guarantees of those deemed responsible for an infraction, with the possibility of adopting, within reason, provisional measures, such as the preliminary suspension of the administrative act concerned, while observing due separation of the phases of instruction and resolution, whose competency must be attributed to distinct organs, all without prejudice to the principles of procedural effectiveness, speed, and economy pertaining to the regulatory structure of the said procedure.



## **ANNEX III:**

# **PROTOCOL FOR THE MANAGEMENT OF CONFLICTS OF INTEREST**

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A1: DECLARATION OF ABSENCE OF CONFLICT OF INTEREST (DACI)	

## **I. INTRODUCTION**

Regulation (EU, Euratom) 2018/1046 of the European Parliament and Council (18 July 2018) concerning financial rules applicable to the general budget of the Union (Financial Regulation) imposes an obligation to avoid and/or regulate any situation that is ‘perceived’ as a potential conflict of interest.

Similarly, article 6.4 of Order HFP/1030/2021 (29 February), which defines the structure of the management system of the Recovery, Transformation, and Resilience Plan, defines as obligatory actions on the part of managerial organs assessment of the risk of fraud, compliance with the Declaration of Absence of Conflict of Interest (DACI), and the setting up of a procedure for tackling conflicts of interest.

In fulfilment of this obligation, the IAC has drafted and approved the present protocol aimed at management and other staff at the IAC participating in the various stages of the execution of projects receiving funding under the terms of the Plan.

## **II. RATIONALE**

Within the conceptual framework of article 61 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and Council (18 July 2018) concerning the financial rules governing the general budget of the Union (Financial Regulation), a conflict of interest occurs ‘when financial agents and other persons involved in the execution of a budget, whether directly or indirectly and shared, or in its management, including preparatory, auditory, or control activities, in some way compromise the impartial and objective exercise of their functions by reason of family ties, emotional factors, or political or national affinities, economic interest, or any other direct or indirect motive involving personal interests’.

The coming into force of this regulation provided a horizontal, clearer, and broad focus by couching the concept of conflict of interest in the following terms:

- i. It is applicable to all administrative and operational echelons of all the institutions of the EU and to all its methods of management.
- ii. It covers any kind of personal interest, whether direct or indirect.



iii. Action must be taken in the face of any situation 'perceived' as a potential conflict of interest.

iv. National authorities, at all levels, must avoid and/or manage potential conflicts of interest.

For its part, article 23.2 ('Abstention') of Law 40/2015 (1 October) of the Juridical Regime of the Public Sector establishes on the part of 'personnel in the service of Administrations who find themselves in any of the following circumstances' the obligation to abstain from intervening in the procedure, these circumstances being:

- a) 'Having a personal interest in the matter in hand or in another whose resolution might influence its outcome; being the administrator of an interested society or entity, or having pending litigation with an interested party.
- b) Being linked through matrimony or a de facto similar situation and a relationship of up to the fourth degree consanguinity in the case of the latter, or with any of the interested parties, or with administrators of the interested entities or societies or their assessors, legal representatives or agents, or sharing of a professional office or being associated with such persons in an assessorial, representative, or legal capacity.
- c) Having close friendship with, or manifest dislike of, the previously mentioned persons.
- d) Having previously been involved as an expert or witness in the procedure in question.
- e) Having a direct service relationship in the matter with an interested natural or juridical person, or having provided professional services of any kind, or in any circumstance or place'.

### III. CLASSIFICATION

Situations that might give rise to a conflict of interest include:

i. **Apparent conflict of interest:** produced when the private interests of public employees or beneficiaries could potentially compromise the objective exercise of their functions or obligations, but where, ultimately, no identifiable or definite link with specific aspects of their conduct, behaviour, or relations (or any of repercussions thereof) can be found.

ii. **Potential conflict of interest:** when public employees or beneficiaries have private interests of such a nature to give rise to a conflict of interests that might impinge on official responsibilities that they might have in the future.

iii. **Real conflict of interest:** a conflict of interest between the public duty and private interests of a public employee, or one in which the public employee has personal interests that might unduly influence the performance of that person's official duties and responsibilities. In the case of a beneficiary, this would imply a conflict between that person's contractual obligations in applying for funding and private interests that could unduly influence the fulfilment of those obligations.

### IV. OBJECTIVE OF THIS PROTOCOL

To establish principles of action and appropriate measures designed to prevent, identify, and manage potential conflicts of interest deriving from the exercise of actions and procedures relating to projects undertaken by the IAC, with particular emphasis on the budgetary assignment of Next Generation Funds.

### V. SCOPE

The present protocol shall apply to all persons who become in any way involved in projects with funding allocations, in both the preparation and presentation stages of projects, and in their management and execution, for which purpose are included within its subjective scope of application:

i. Public employees involved in the tasks of management, control, and payment, as

well as other agents to whom any of these functions have been delegated.

ii. Those private beneficiaries, partners, contractors, and subcontractors whose actions are financed with funds whose actions could be construed, within the framework of conflict of interest, to benefit their personal interests while running counter to the financial interests of the EU.

## **VI. PRINCIPLES OF ACTION THAT MUST BE OBSERVED**

Without prejudice to its inherent consortial character, the IAC, as a Public Research Organism of the General State Administration, its organs of governance, management, and personnel, are committed, in accordance with its Code of Ethics, to the observance in the exercise of their functions of the Spanish Constitution and legal obligations, and to promote respect for fundamental rights and public liberties.

Similarly, in compliance with the stipulations set out in article 26 of Law 19/2013 (9 December) concerning transparency, public access to information, and good governance, the IAC and its governing organs, and all its personnel, shall adapt their activities to the following principles:

1º. They shall act with transparency to fulfil the aims of the IAC in accordance with the principles of effectiveness, economy, and efficiency, appropriately managing public resources with full dedication and with the goal of working in the public interest, abstaining from any conduct that is contrary to these principles, or which can be used for activities that are prohibited under the regulations in force.

2º. They shall respect the principle of impartiality, maintaining an independent criterion that eschews personal interest; respect regulations regarding incompatibility and conflicts of interest, taking care not to become implicated in situations, activities, or interests that are incompatible with their functions, abstaining from engaging in matters that might impair their objectivity, and informing their immediate superiors of any situation implying a conflict of interest.

3º. They shall exercise due diligence in the performance of their duties and strive to improve the quality of the projects or actions they undertake.

4º. They shall assume responsibility for their own decisions and actions, and for the

organisms under their authority, without prejudice without prejudice to any legal requirements.

5°. They shall respect the confidentiality of any facts or information for the purposes and during the exercise of their duties.

6°. They shall inform the relevant organs of any irregular actions that they detect.

7°. They shall not accept gifts beyond those that are merely token or a matter of courtesy, or favours or services that might affect the performance of their functions. Gifts of major institutional importance shall be incorporated into the patrimony of the IAC.

## **VII. MEASURES TO PREVENT SITUATIONS THAT CONSTITUTE A CONFLICT OF INTEREST**

1<sup>a</sup>.- Informing personnel of the entity of the various types of conflicts of interest and the ways of avoiding them.

2<sup>a</sup>.- Signing by those participating directly or indirectly in the instruments of management for the execution of projects, particularly those projects financed by Next Generation Funds, of a **DECLARATION OF ABSENCE OF CONFLICTS OF INTEREST (DACI)** making use of the model given in this document (A1).

The DACI must be signed prior to participation in any contract archive or selection of personnel.

The head of every project, particularly those in receipt of Next Generation Funds, shall be responsible for gathering from every person in the project a signed declaration of absence of conflicts of interest, making sure that all signatories are aware of the requirement to declare immediately any changes in their situation.

In the case of subcontractees in the Project, the contracting unit shall require that subcontractees sign a DACI and fill in a form to declare whether they have family relationships with any of the members of the governing council or directorate of the IAC, indicating the nature of any such links, also indicating any direct or indirect links they may have with firms through a family member of affinity up to fourth degree consanguinity, or of second or third degree consanguinity, or through other related societies.

Any contract signed by such collaborative personnel must include clauses indicating sanctions for improper conduct. These sanctions could range from termination of the contract to exclusion from participation in contractual procedures with the IAC for a specified number of years.

DACIs must figure as documented information in the corresponding file linked to the project.

3<sup>a</sup>.- The Ethics (and Antifraud) Committee shall be empowered to act ex officio to check the veracity of information through databases of mercantile registers, databases of national and EU organisms, personnel files (respecting data protection regulations), and the use of data mining and risk identification (ARACHNE) tools.

## **VIII. MEASURES TO TACKLE POSSIBLE EXISTING CONFLICTS OF INTEREST—DETECTION AND REACTION**

1<sup>a</sup>.- Where there exists a possible conflict of interest, the appropriate IAC authority shall take the precaution to ensure that the person concerned ceases all activity in the project affected while the implications of the occasion of conflict of interest for the execution of the project is investigated, and a decision taken as to whether the person affected should be definitively separated from the project, assigned other functions that do not involve any conflict of interest, or whether the functions initially assigned to that person should be allowed continue while excluding him or her from any decision-making process. In any case, the decision arrived at must be completely transparent, with precise limitations being imposed on the involvement of the employee or expert in the project, proper notification of any situation involving conflict of interest being given to the deciding organ in the allocation of funds.

2<sup>a</sup>.- Any member of the IAC having knowledge of any circumstance that might constitute a conflict of interest, and that might affect another member (employee or partner) must report that circumstance through the appropriate complaints channel.

If it should be discovered, whether by means of an internal complaint or by any other means, that a person involved in a situation of conflict of interest in relation to a given project has not communicated this situation to his or her superior, head of project, or, where appropriate, the Director of the IAC or the Governing Council, that person shall be subjected to appropriate disciplinary action.



The matter must be submitted the authority charged with the distribution of the funds and also, if deemed necessary, the National Service for Antifraud Coordination. If the case should warrant it, the matter may be submitted to state authorities for further investigation.

Sidestepping the obligation to communicate a situation involving a conflict of interest by arguing a potential benefit for the IAC shall be discounted as sufficient grounds for exonerating such an omission from possible disciplinary action.

3<sup>a</sup>.- After examining any actions that might have been influenced by a discovered situation of conflict of interest and assessing any damage that might impede the proper conclusion of the affected project, appropriate reparatory measures shall be adopted and communicated to the authority managing the funds.

4<sup>a</sup>.- If an external partner infringes the obligation to communicate any 'conflicts of interest', professional relations with that partner shall be suspended forthwith.

5<sup>a</sup>.- It must be determined whether a failure to fulfil the obligation to communicate a conflict of interest is merely an isolated instance or symptomatic of an underlying pattern of behaviour. If it is an isolated instance, action must be taken to remedy that specific case. If the failure is part of a systemic pattern of behaviour, an in-depth investigation must be undertaken to check the veracity of the DACI in order to adopt the appropriate corrective measures.

6<sup>a</sup>.- Communicate internally (at least to the staff and Governing Council) a summary of the investigation carried out, the facts discovered, and the corrective or disciplinary measures adopted.

7<sup>a</sup>.- El The IAC shall set up and maintain a register of all conflicts of interest declared and/or investigated, with due reference to any disciplinary procedures opened regarding undeclared conflicts of interest, together with (where appropriate) the sanctions imposed.

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