

RECOVERY, TRANSFORMATION AND
RESILIENCE PLAN (RRTP)



ANTI-FRAUD MEASURES PLAN

INSTITUTO DE ASTROFÍSICA DE CANARIAS



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Executive Summary: This Executive Document addresses the need to have an Anti-Fraud Measures Plan in place to comply with the provisions of Article 6 of Order HFP 1030/2021, of September 29, which configures the management system for the Recovery, Transformation, and Resilience Plan, and Article 22 of Regulation (EU) 241/2021 of the European Parliament and of the Council, of February 12, 2021. Likewise, the measures detailed herein shall be of general application to the management of all IAC funds.

Record of changes:

Version	Date	Major changes
1.1	28/12/21	Initial Version
2.1	17/01/24	Added definitions of different concepts and the sections: "Monitoring" and "Auditing"
3.1	21/01/26	The definition of the concept of irregularity and the 'Prevention' section have been added. Changes have been implemented in the wording of several paragraphs, and the procedure to be followed in case of fraud has been included. The Record of Changes is added.

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1 Background

The Recovery, Transformation and Resilience Plan, hereinafter RTRP, is configured as an instrument promoted at the European Union level aimed at mitigating the impacts of the COVID-19 Pandemic, as well as transforming society, with the objectives of modernising the productive fabric, promoting "decarbonisation" and respect for the environment, promoting digitalisation, and the improvement of structures and resources for research and training, ultimately achieving a greater capacity of society to overcome problems such as the Pandemic, in accordance with the framework established in Regulation (EU) 2021/241 of the European Parliament and of the Council, of 12 February 2021, establishing the Recovery and Resilience Facility.

In accordance with Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 and the configuration of the Plan, the procedures must contemplate the requirements established in relation to effective equality between men and women, territorial cohesion, respect for the environment and incentives for digitalisation. In the same vein, mention should be made of the fight against fraud and corruption, and the identification of the ultimate beneficiaries of aid, as well as contractors and subcontractors.

On 30 September 2021, Order HFP/1030/2021, of 29 September, was published in the "Boletín Oficial del Estado", configuring the management system of the Recovery, Transformation and Resilience Plan.

This Order configures and develops a Management System aimed at defining, planning, executing, monitoring and controlling the projects and sub-projects into which the different measures provided for in the components of the RTRP are broken down.

Among these measures, art. 6 of Order HFP/1030/2021, of 29 September, in order to comply with the obligations that Article 22 of Regulation (EU) 241/2021 of the European Parliament and of the Council, of 12 February 2021, imposes on Spain in relation to the protection of the financial interests of the Union as a beneficiary of RRF funds, that any entity, decision-maker or executor, participating in the implementation of the RTRP measures has an 'Anti-Fraud Measures Plan' that allows it to guarantee and declare that, in its respective field of action, the corresponding funds have been used in accordance with the applicable rules, in particular as regards prevention, detection and correction of fraud, corruption and conflicts of interest.

The mandatory actions for the managing bodies are the assessment of fraud risk, the completion of the Declaration of Absence of Conflict of Interest (DACI) and the availability of a procedure to address conflicts of interest. The choice of prevention and detection measures is left to the discretion of the entity assuming management responsibility, taking into account its specific characteristics and always taking into account the need to ensure appropriate protection of the Union's interests.

The Instituto de Astrofísica de Canarias (hereinafter, IAC), as the executing entity of the Recovery, Transformation and Resilience Plan, must optimise its mechanisms for the prevention, detection and

correction of fraud, corruption and conflict of interest. In this sense, it needs to have a "PLAN OF ANTI-FRAUD MEASURES" that meets the requirements of Order HFP/1030/2021, of 29 September, which configures the management system of the Recovery, Transformation and Resilience Plan.

The measures detailed below will be, in addition to the particular case of the management of PPTR funds, of general application to the IAC's financing activity.

2 The IAC's Anti-fraud Measures Plan

2.1 Introduction

The ANTI-FRAUD MEASURES PLAN (hereinafter, the "Anti-Fraud Plan" or "Plan"), approved by the Governing Council, details the principles of management, prevention, detection, correction and prosecution of fraud within the IAC due to the execution of its funds, and in particular of the Next Generation funds, also including the measures for the prevention or mitigation of conflicts of interest that arise in the execution of the same.

This Plan structures the anti-fraud measures in a proportionate manner and around the four key elements of the so-called "anti-fraud cycle": prevention, detection, correction and prosecution. It also provides for the institution to carry out an assessment of the risk, impact and probability of fraud risk in the key processes of the execution of funds in the IAC and in particular, of the Recovery, Transformation and Resilience Plan, and its periodic, annual review according to the risk of fraud and, in any case, when a case of fraud has been detected or there are significant changes in procedures or personnel.

Finally, it defines or verifies the following monitoring and control elements:

- a. Appropriate and proportionate preventive measures, tailored to specific situations, to reduce the residual risk of fraud to an acceptable level.
- b. Detection measures adjusted to the warning signs and define the procedure for their effective application.
- c. Appropriate corrective action when a suspected case of fraud is detected, with clear mechanisms for reporting suspected fraud.
- d. Processes for the follow-up of suspected cases of fraud and the corresponding recovery of fraudulently spent EU Funds.
- e. Follow-up procedures to review the processes, procedures and controls related to actual or potential fraud, which are transmitted to the relevant review of the fraud risk assessment.
- f. Procedures relating to the prevention and correction of situations of conflicts of interest as set out in Article 61(1) and (2) of the EU Financial Regulation. In particular, it establishes as mandatory the subscription of a DACI by those who participate in the procedures for the

execution of funds, the communication to the contracting authority of the existence of any potential conflict of interest and the adoption by the latter of the corresponding decision in each case.

An important part of these measures/actions are contemplated in the IAC's internal management processes approved by its Management Committee, such as: (1) the External Funding Management Process; (2) the Protocol of Administrative Contracting; (3) the Treasury Management Procedure at the IAC; (4) the Finance Process and (5) the Personnel Hiring Process.

These processes are accessible to all IAC staff on its intranet.

2.2 Scope and subjective scope of application

This IAC Anti-Fraud Plan is applicable to:

1. All persons who make up the IAC's Governing Body, as well as those who, in any other way, acting individually or as members of an IAC body, are authorised to make decisions on behalf of the IAC or hold organisational and control powers within it.
2. To all those other persons who are subject to the authority of the IAC Directorate, intervening in the execution of funds, that is to say:
 - a) Its own staff, hired under the terms provided for in the law for the staff at the service of the Public Research Bodies of the General State Administration and in the statutes of the Consortium.
 - b) Own civil servant staff, belonging to the Scales provided for in the law for the Public Research Bodies of the General State Administration.
 - c) Staff, civil servants or employees, belonging to the Consortium Administrations, and attached to the IAC, regardless of their administrative situation in relation to their institution of origin.
 - d) Staff at the service of other institutions or entities, public or private, attached to the Consortium.
3. To all other natural or legal persons who in any way (by virtue of a contract or any other type of agreement) collaborate in the execution of the projects receiving funds, or in the preparation and/or submission of the information that may be required by the competent authorities regarding the management of the funds.

2.3 Concept of fraud, corruption, conflict of interest, risk, red flag and irregularity

In accordance with article 6.2 of Order HFP/1030/2021, of 29 September, which configures the RTRP management system, the definitions of fraud, corruption and conflict of interest contained in Directive (EU) 2017/1371, on the fight against fraud affecting the financial interests of the Union (hereinafter the PIF Directive) are applicable, and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (EU Financial Regulation).

In accordance with this, the definitions contained in the aforementioned regulations are extracted below.

Fraud

Article 3 of the PIF Directive, in its paragraph 2.a) defines fraud in respect of expenditure as any "intentional act or omission, relating:

- i. The use or submission of false, inaccurate or incomplete declarations or documents, which has the effect of improperly collecting or withholding funds from the general budget of the European Communities or from budgets administered by or on behalf of the European Communities.
- ii. Failure to comply with an express obligation to communicate information, which has the same effect.
- iii. To the diversion of those same funds for purposes other than those for which they were originally granted."

On the other hand, paragraph 2(b) defines fraud in respect of expenditure related to public procurement, at least when committed with a view to illegitimate profit for the perpetrator or another person, causing a loss to the financial interests of the Union.

In addition, the PIF Directive indicates that Member States shall adopt the necessary measures to ensure that fraud affecting the financial interests of the Union constitutes a criminal offence when committed intentionally, specifying a sanctioning regime in Article 7 of the aforementioned Directive. In compliance with this provision, this Directive has been transposed into the Spanish legal system by means of the corresponding classification in the Criminal Code.

It should be noted that the existence of an irregularity does not always imply the possible existence of fraud; The concurrence of intentionality is an essential element in fraud, an element that does not need to be present for there to be irregularity.

Article 1.2 of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests provides that "*any infringement of a provision of*

Community law relating to an act or omission of an economic operator which has or would have the effect of adversely affecting the general budget of the Communities or the budgets administered by the Communities shall constitute an irregularity, either by reducing or eliminating revenue from own resources received directly on behalf of the Communities, or by undue expenditure".

Corruption

"Passive corruption shall be understood as the action of an official who, directly or through an intermediary, asks for or receives advantages of any kind, for himself or for third parties, or accepts the promise of an advantage, in order to act, or refrains from acting, in accordance with his duty or in the exercise of his functions, in such a way as to prejudice or is likely to prejudice the financial interests of the Union".

"Active corruption shall mean the action of any person who promises, offers or grants, directly or through an intermediary, an advantage of any kind to an official, for himself or for a third party, in order to make him act, or refrain from acting, in accordance with his duty or in the exercise of his duties in a way that harms or is likely to prejudice the financial interests of the Union".

Conflict of interest

According to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018, there is a conflict of interest *"where financial actors and other persons involved in the implementation of the budget both directly, indirectly and jointly and in management, including preparatory acts, audit or control, see the impartial and objective exercise of their functions compromised for family, affective reasons, political or national affinity, economic interest or for any other direct or indirect reason of personal interest"*.

This concept:

- a) It is applicable to all administrative and operational items in all EU institutions and all management methods.
- b) It covers any type of personal interest, direct or indirect.
- c) In the face of any situation that is "perceived" as a potential conflict of interest, action must be taken.
- d) National authorities, at any level, should avoid and/or manage potential conflicts of interest.

The following may be involved in the conflict of interest:

- a) Public employees who carry out management, control and payment tasks and other agents to whom some of these functions have been delegated.
- b) Those private beneficiaries, partners, contractors and subcontractors, whose actions are financed with funds, who can act in their own interests, but against the financial interests of the EU, in the framework of a conflict of interest.

Depending on the situation that would give rise to the conflict of interest, a distinction can be made between:

- a) Apparent conflict of interest: occurs when the private interests of a public employee or beneficiary are likely to compromise the objective exercise of their functions or obligations, but ultimately there is no identifiable and individual link with specific aspects of the person's conduct, behaviour or relationships (or an impact on such aspects).
- b) Potential conflict of interest: arises when a public employee or beneficiary has private interests of such a nature that they could be likely to cause a conflict of interest in the event that they had to assume certain official responsibilities in the future.
- c) Actual conflict of interest: involves a conflict between the public duty and the private interests of a public employee or in which the public employee has personal interests that may unduly influence the performance of his or her official duties and responsibilities. In the case of a beneficiary, it would imply a conflict between the obligations contracted when requesting the assistance of the funds and their private interests that may unduly influence the performance of the aforementioned obligations.

Risk

For the purposes of completing the matrix, risk is understood to be an event or action that, in the If it occurs, it can negatively and significantly affect:

- a) The capacity and effectiveness of management instruments.
- b) The selection and execution of operations.
- c) Certification of operations or projects.
- d) The reputation of the agents involved.
- e) Mitigating the potential occurrence of irregularities or fraud.

Red flag

Red flags are red flags, clues, or indications of possible fraud. The existence of a red flag does not necessarily imply the existence of fraud, but it does indicate that a certain area of activity needs extra attention to rule out or confirm potential fraud.

Irregularidad

Article 1(2) of Regulation (EC, Euratom) No 2988/955 defines 'irregularity' as: 'any infringement of a provision of Community law relating to an act or omission of an economic operator which has or would have the effect of adversely affecting the general budget of the Communities or the budgets administered by them, either by reducing or eliminating revenue from own resources received directly on behalf of the Communities, or through an undue expense'.

Article 1a of Regulation (EC) No 1681/94 contains an adapted definition: 'irregularity' as 'any infringement of a provision of Community law relating to an act or omission of an economic operator

which has or would have the effect of adversely affecting the general budget of the European Communities by charging undue expenditure to the Community budget'.

It should be noted that the existence of an irregularity does not always imply the possible existence of fraud. The concurrence of intent is an essential element in fraud, an element that does not need to be present for there to be irregularity. Therefore, the element of intentional deception is what distinguishes fraud from the more general term of irregularity.

Notwithstanding the foregoing, and in accordance with Article 3(e) of Regulation (EC) No 1681/94, since 2006 Member States have been required to specify, when reporting irregularities to the Commission, whether such irregularities reveal suspicions of fraud.

In any case, without prejudice to the fraudulent nature or non-fraudulent nature of the irregularity, the effective and full execution of public management may have an indirect impact on the prevention and detection of irregularities in general terms (arising from unidentified or uncontrolled conflicts of interest, originating from lack of planning or waste), considering these as a broader category than fraud.

2.4 Structure of the Anti-Fraud Measures Plan

The Plan is structured around the four phases of the so-called "anti-fraud cycle": prevention, detection, correction and prosecution, determining the proportionate and effective measures and controls in relation to each of these phases, to limit the risk of fraud and its effects.

The effectiveness of the measures and controls provided have been defined based on a previous assessment of the risk, impact and probability of fraud risk in the key fund management processes in the IAC, specifically the Next Generation Funds.



These measures complement the processes, procedures and controls existing in the IAC for the correct execution of its funds, being key to the follow-up of suspected cases of fraud and, where appropriate, to the recovery of fraudulently spent funds.

Finally, following the indications of Order HFP/1030/2021, the Plan defines effective procedures for the prevention and correction of conflict-of-interest situations.

2.5 Self-assessment carried out by the IAC

In accordance with the obligation imposed in article 6.2 of Order HFP 1030/2021, a self-assessment questionnaire was completed prior to the approval of this document, following the model in ANNEX II B.5 of the aforementioned Ministerial Order. Subsequently, this questionnaire has been updated accordingly.

The self-evaluation will be carried out by people from different departments and responsibilities, and it is necessary to draw up a record explaining the decision on the points reviewed and the agreement adopted.

The result of the latest version of the aforementioned questionnaire has served as a starting point for the revision of this Anti-Fraud Measures Plan, and is included as **Annex I**.

The IAC will carry out a self-evaluation of the performance of the management control function at least once a year during the duration of the current Plan.

3 Control measures that make up the IAC's Anti-Fraud Plan

A total of 10 measures have been identified as part of this Plan:

M1) In relation to the **IAC's Anti-Fraud Policy (Annex II)**, as a manifested will against fraud, it will be endorsed by the Governing Council, as the highest governing body of the IAC, and communicated and disseminated to the entire organization. The IAC's anti-fraud policy is based on zero tolerance for corruption and requires setting operational objectives related to the achievement – in a certain period of time – of certain milestones or levels of implementation of the different anti-fraud controls and measures that the IAC has in place in a virtuous cycle of continuous improvement.

M2) Publication of the Anti-Fraud Measures Plan and specific dissemination to all the personnel indicated in point 2.2, committing to the observance of this Plan, compliance and personal responsibility with respect to the procedures, protocols and controls in force at all times and that affect them in the exercise of their functions.

M3) Dissemination of the **IAC Code of Ethics** to all personnel involved in the management of funds, in particular in the management of the RTRP, as a set of principles, values and rules of behaviour that govern an organisation as an essential pillar of the fraud prevention programme, with acknowledgement of receipt and adherence by them.

As part of measures 1, 2 and 3, a declaration of having been informed of their duties and obligations under the Anti-Fraud Measures Plan, the IAC Code of Ethics and compliance with the duties ex art. 52 of Royal Legislative Decree 5/2015, of 30 October, will be collected and filed. approving the revised text of the Law on the Basic Statute of Public Employees.

M4) In relation to the **communication channels (Ethical and codigoetico@iac.es Channel)**, in order to strengthen their effectiveness, as a useful means of detecting fraud, specific instructions will be developed for the processing of communications made in this area, with particular attention to the safeguarding of the rights of the accused and the confidentiality of the complaints.

M5) The IAC will guarantee a **clear and segregated distribution of functions and responsibilities** in the different processes and sub-processes involved in the execution of funds, which will be subject to periodic review through the work of the IAC Process Group.

M6) The Conflict-of-Interest Management Protocol **is defined**, which is attached as **Annex III**, which includes the Declaration of **Absence of Conflict of Interest (DACI)** models proposed as specific preventive control.

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

- Communication and training of IAC staff. This training aspect will be included in the training plan, which is also provided for as a generic preventive control.
- Compilation and filing of the DACI duly signed by the members of the IAC who participate in the management of tenders, personnel selection and Next Generation Funds, in each of the phases that make up said management, so that they expressly adhere to it.
- Likewise, the DACI of the awardees of minor contracts and the persons hired by the IAC will be compiled.

M7) Reinforcement of the IAC's Ethical Culture, through an appropriate **annual training and awareness** programme on corruption, fraud and conflicts of interest that promotes the acquisition and transfer of knowledge in the areas of risk identification and assessment, establishment of specific controls, action in the event of fraud detection, reference case studies, etc. etc. The training actions will be aimed at all hierarchical levels, including meetings, seminars, working groups, etc.

M8) For the proper management of the Anti-Fraud Plan, the Code of Ethics and Anti-Fraud Committee will include among its purposes the supervision of the process of implementation and monitoring of the Anti-Fraud Measures Plan.

Among others, its functions within the framework of the Anti-Fraud Measures Plan will be:

- a. Monitor the process of implementing fraud prevention measures approved by the Management Committee.
- b. To report to the Management Committee, at least annually or when required by the latter, on the implementation or supervision of the anti-fraud measures plan.

- c. To ensure the dissemination of the principles and values set out in the IAC Code of Ethics.
- d. Disseminate knowledge of the IAC's Code of Ethics, the Anti-Fraud Policy, and the IAC's commitment to integrity and the fight against corruption. Communicate the Code of Ethics and the Anti-Fraud Action Plan externally to business partners and interested parties.
- e. Coordinate the internal tasks of implementation and supervision of the operation of the anti-fraud measures plan.
- f. To analyse legislative amendments and other developments that may affect the Plan.
- g. Propose to the Management Committee any modification of the Anti-Fraud Measures Plan or the documents that comprise it.
- h. Propose to the Management Committee a communication and training plan for the Anti-Fraud Measures Plan and execute said communication and training plan.
- i. To establish and maintain the appropriate procedures so that those responsible for the different areas of the IAC involved in the projects receiving funds, in particular the Next Generation funds, can meet the following objectives:
 - i.1. Know the risks of fraud in the phases of proposal, and/or execution of projects, or preparation of budgets, liquidation and/or accountability of the funds in which they intervene, propose, and validate the policies and preventive measures that minimize them.
 - i.2. Oversee all controls and measures designed to prevent and mitigate the risks of fraud or corruption related to such funds.

The Code of Ethics and Anti-Fraud Committee shall meet at least twice a year, and may convene as many extraordinary meetings as deemed necessary, depending on the nature and urgency of the issues to be discussed. Sessions can be held in person or through the use of telematic means.

The Code of Ethics and Anti-Fraud Commission is advised by the corresponding Legal Service, as well as by a representative of the General Comptroller's Office and, when deemed necessary, it may have, upon request, the advice of independent experts, as well as the relevant investigation of fraud and irregularities, expert reports, etc.

M9) Revision of the "**Controls and Risks Matrix**", included in Annex IV.

As an instrument that allows an initial and follow-up assessment to be carried out on the level of risk and compliance with the specific controls established for the mitigation of said risk of fraud, corruption or conflict of interest. Its purpose is to assess the initial probability or percentage of probability of the risk of fraud, corruption or conflict of interest, through the identification of a

series of flags or signals, which are indicative of the materialization of the aforementioned specific risk in the different processes, sub-processes or activities of the projects subject to financing. It is also responsible for "ex post" control; that is, for carrying out a subsequent annual evaluation and at the end of the financed project, which allows the detection of flags or signals that have actually materialized.

The risk and controls matrix specifies a series of fraud, corruption and conflict of interest risks that affect both the project preparation and presentation phases and the execution of such projects, in addition to the specific controls proposed for the mitigation of the risk coefficient. Depending on the net risk score, additional checks will be carried out in accordance with:

- a. If the total net risk is low (acceptable), it will not be necessary to include additional controls to those already foreseen, unless deemed appropriate.
- b. If the total net risk is medium (significant), additional controls and measures to be applied will be included, indicating the unit/person responsible and the deadline for their implementation.
- c. If the total risk is high (serious), additional controls and measures will be established and applied with an indication of the unit/person responsible and the deadline for their implementation, and action must be taken immediately, so that the deadline for the application of the controls and measures provided for must be as short as possible.

The following specific measure is defined to achieve the implementation and correct execution of these controls, included in the matrix designed:

M10) Documentary justification of all operations linked to the execution of funds. This must be preferably recorded in SAP, and, subsidiarily, in any other "management operating system" that may be applicable. Likewise, the accounting books, and the applications used by the IAC for the recording of income and expenses are provided as specific documentary evidence of the specific controls of this phase.

In particular, each administrative file must contain in its entirety and in an orderly manner all the administrative actions, including it, also including the justification of the corresponding controls.

It is ultimately the responsibility of the Code of Ethics and Anti-Fraud Commission to ensure that the proposed controls are documented to prevent or mitigate the risk of fraud, corruption or conflict of interest.

4 Protocol of action in the event of suspicion of a fraudulent act. Reactive measures

The protocol aims to constitute an instrument suitable for the prosecution of fraudulent or corrupt conduct or conduct that puts at risk the ethical principles and values declared in the Code

of Ethics or compliance with the measures and controls implemented to avoid or minimize the risk of fraud, in accordance with the following actions:

1. In the event of indications or complaints, the Committee on the Code of Ethics and Anti-Fraud must verify the complaint and issue a reasoned report on the admissibility of its admission or the reasons for its inadmissibility and communicate the report prepared to the Director of the IAC, who will decide on its processing.
2. Upon receipt of the Commission's report, the Director shall agree on one of the following actions:
 - a) **Archiving of the complaint**, in the event of lack of purpose or insufficient evidence, or withdrawal of the complainant, although in this case the investigation of the complaint will continue ex officio if indications of fraud are detected.

In the event that the facts are not yet susceptible to being classified as fraudulent conduct, but if no action is taken, they could end up being so, it may provide a proposal for guidelines for action and preventive measures in view of the Commission's report.

b) **Opening of a confidential information file and appointment of an investigator**¹ who, with respect for the fundamental rights of those involved, will carry out the appropriate investigative measures and who, at the end of them, will propose with reasons the archiving of the complaint or confirm, also with reasons, the presumption of plausibility of the complaint and its legal relevance.

b.1) In the latter case, the Director, after assessing the report prepared by the investigator(s), will transmit the result to the defendant for allegations.

b.2) Once the allegations have been received, the Director will issue a decision, at the proposal of the investigator, and must adopt one of the following measures:

- i. Communicate the events that occurred and the measures adopted to the executing entity that has entrusted it with the execution of the actions, which will communicate the matter to the Responsible Authority, which may request the additional information it deems

¹ Article 28 of the Regulations on the Disciplinary Regime of State Administration Officials, approved by Royal Decree 33/1986, of 10 January, "the body competent to initiate the procedure may previously agree to the production of confidential information".

Article 55 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations, according to which "the competent body may open a period of information or preliminary actions in order to know the circumstances of the specific case and the convenience or not of initiating the procedure"

appropriate for its follow-up and communication to the specific Unit for the prevention of fraud.

- ii. Report to the competent authorities (National Anti-Fraud Coordination Service -SNCA-) or to the European Anti-Fraud Office (OLAF), in the case of Next Generation funds, the fact of which they have become aware, through the channel described above. When the act is a criminal offence, it shall be reported to the public prosecutor's office or the competent courts.
- iii. Suspend professional relations with any collaborators allegedly involved in the facts under investigation.
- iv. Initiate disciplinary proceedings to determine the corresponding responsibilities.
- v. Request the Code of Ethics and Anti-Fraud Committee to analyse whether the incident has been one-off or systemic, for the purposes of a possible correction of the risk and control matrix, which must be done within a maximum period of 15 days.
- vi. Communicate to the Management Committee and the complainant, with safeguarding of the personal data subject to legal protection, a summary of the proceedings carried out, the fact discovered and the corrective or disciplinary measures adopted.
- vii. To paralyze the action, or part of it, affected by indications of fraud, whenever possible.
- viii. Review of all projects, subprojects or lines of action that may have been exposed, as well as internal control procedures for the identification of vulnerabilities and correct them.

c) **Initiation of disciplinary proceedings** in accordance with the provisions of the following section (DISCIPLINARY REGIME).

3. The custody and archiving of the complaints received will be the responsibility of the Code of Ethics and Anti-Fraud Commission.
4. The IAC Management Committee will guarantee that no action is taken against the complainants or their interests, without prejudice to the personal liability of the author of complaints that are considered false, made in bad faith and with the sole intention of undermining the professional reputation or good name of the persons reported or of the IAC itself.
5. In the internal investigation process, the accused shall have the right to be assisted by a lawyer of his choice, not to confess guilt, not to testify against himself, to remain silent and not to answer all or any of the questions put to him.
6. The internal investigation procedure may not exceed six months from the date on which the decision to initiate the investigation was adopted, and this period may be extended for a maximum of six more months, in a reasoned manner when the circumstances or complexity of the case so advise.

7. The processing, communications and notifications will be in accordance with the provisions of Title IV of Law 39/2015, on the Common Administrative Procedure of Public Administrations.
8. If fraud is confirmed, the contracting authority will initiate the appropriate proceedings for the recovery of the payments made unduly. In any case, projects or part of projects affected by fraud and financed or to be financed by the RRF must be withdrawn, whenever possible.

5 Double financing

According to Article 191 of Regulation (EU Euratom) 2018/1046 of the European Parliament and of the Council, of 18 July 2018, which specifies the definition of double financing: "in no case may the same expenditure be financed twice by the budget".

Regulation (EU) 2021/241 provides that funding from the Recovery and Resilience Facility is compatible with that from other EU programmes and instruments, provided that the aid does not cover the same cost, i.e. provided that there is no double funding (Recital 62 and Article 9), without prejudice to what may be established in this regard by the Financing Agreement between the EU and the Kingdom of Spain.

In line with the above, the Spanish RTRP expressly includes the control of double financing in section 4.6, relating to "Control and Audit". This section specifies that double financing "in the case of public subsidies, it not only extends to double Community financing, but also to any excess financing that may occur regardless of its origin".

The IAC has an economic and financial control system for the development of its activity, with computer implementation based on the SAP ERP management tool. This management and accounting system allows the monitoring and control of the operations carried out in it, through a codification, which identifies and unequivocally relates the accounting of each expense with the fund that finances it, guaranteeing the traceability of transactions and making it impossible to impute and justify them to several sources of financing.

Finally, the IAC publishes all its contracts on the Public Sector Procurement Platform, including the actions financed with RRF funds.

6 Disciplinary regime

Civil servants and IAC staff are subject to the disciplinary regime established in Royal Legislative Decree 5/2015, of 30 October, which approves the revised text of the Law on the Basic Statute of Public Employees and in Royal Decree 33/1986, of 10 January, which approves the Regulations on the Disciplinary Regime of Civil Servants of the State Administration. The disciplinary regime of contract personnel will be governed, in matters not provided for in the Law on the Basic Statute of Public Employees, by labour legislation.

In accordance with the provisions of the aforementioned regulations, the Public Administrations will discipline the infractions of the personnel in their service committed in the exercise of their functions

and positions, without prejudice to the patrimonial or criminal liability that may arise from such infractions.

Disciplinary power shall be exercised in accordance with the principles of legality and typicity of infractions and sanctions; non-retroactivity of unfavourable sanctioning provisions (and retroactivity of favourable ones); proportionality; guilt and presumption of innocence.

When the investigation of a disciplinary procedure results in the existence of well-founded indications of criminality, its processing shall be suspended and the Public Prosecutor's Office shall be informed.

In accordance with the foregoing, one of the manifestations of the principle of legality is the regulation of the disciplinary procedure, with respect for the rights and guarantees of the alleged perpetrators, with the possibility of adopting, with reasons, provisional measures, such as the precautionary suspension of the administrative act, and with the due separation of the investigation and resolution phases, whose competence must be attributed to different bodies. All this, without prejudice to the principles of efficiency, speed and procedural economy, which inform the regulatory structure of said procedure.

7 Follow-up

All actions taken by the IAC after detecting a possible indication of fraud will be documented. This will allow all suspected cases of fraud to be tracked.

An annual review of the Anti-Fraud Measures Plan will be carried out, which will incorporate the list of new controls implemented or the modification of those that were not effective.

A review of the Plan will be carried out in the event that irregularities leading to fraud, corruption or conflict of interest are detected; or when fraud, corruption or conflict of interest actually occurs, within one month of its detection or occurrence.

8 Audit

In the case of Next Generation funds, the IAC will be subject to the different follow-up visits of this Plan by the management body of the entity responsible for the funds. Likewise, the IAC will respond to all requests for information from the Court of Auditors, in order to contribute to the correct audit of the measures for the prevention, detection and correction of fraud approved by state public sector entities within the framework of the RTRP.

Likewise, the IAC is subject to continuous supervision control exercised by the Ministry of Finance and Public Service through the General Comptroller of the State Administration, under the terms provided for in Law 40/2015. Internal control is carried out by the General Comptroller of the State Administration under the modalities of permanent financial control and public auditing. Permanent financial control will be carried out by the Delegated Intervention in the IAC. For its part, the external

control of economic and financial management corresponds to the Court of Auditors through the General Comptroller of the State Administration.

9 Prevention

Prevention is addressed through a set of 10 control measures, focusing on ethical culture, segregation of duties, and the management of conflicts of interest:

- **Zero Tolerance and Dissemination Policy.**
 - The **IAC's Anti-Fraud Policy**, which establishes **zero tolerance for corruption**, is endorsed by the Governing Council and communicated to the entire organization.
 - The Anti-Fraud Measures Plan (**M2**) **is published** and disseminated to all applicable personnel (point 2.2), committing to its observance, as well as to compliance with and personal responsibility with respect to procedures and controls.
- **Code of Ethics and Declaration of Duties.**
 - The IAC Code of Ethics (**M3**) **is disseminated** to all personnel who manage funds, being an essential pillar for prevention. Staff must sign an acknowledgment of receipt and adhesion.
 - A statement of having been informed of their duties and obligations under the Plan, the Code of Ethics, and compliance with the duties of the Basic Statute of Public Employees is collected and filed from employees.
- **Conflict of Interest Management.**
 - The Conflict of Interest Management Protocol (**M6**) is defined .
 - The Declaration of Absence of Conflict of Interest (DACI) **is implemented** as a specific preventive control, being collected and archived from the members of the IAC and the awardees/contractors who participate in the management of tenders, personnel selection and Next Generation Funds.
- **Organization and Training.**
 - A **clear and segregated distribution of roles and responsibilities** (**M5**) is ensured in the processes of execution of funds, periodically reviewed by the IAC Process Group.
 - The Ethical Culture **is reinforced** through an **annual training and awareness programme** (**M7**) on fraud, corruption and conflicts of interest, aimed at all hierarchical levels.
 - A model **Controls and Risk Matrix** (**M9**) (Annex IV) is included to carry out an initial and follow-up assessment of the level of risk, identifying red flags and specific controls for risk mitigation.
- **Document Traceability.**
 - **Documentary justification** is required for all transactions linked to the execution of funds (**M10**), preferably in the SAP system or in any other applicable operational management system.