



Corruption, Fraud and Conflicts of Interest Prevention Policy

Document	Corruption, Fraud and Conflicts of Interest Prevention Policy
Description	Corruption, Fraud and Conflicts of Interest Prevention Policy
Creation date	November 2022
Revision date	To be determined
Purpose	To establish the general principles for managing the risks of corruption, fraud and conflicts of interest at ICN2.
Classification	Internal document

Contents

Introduction	2
1. Scope	3
2. Commitment to the fight against fraud and anti-fraud principles	3
3. Dealings with contractors, subcontractors and grant managers	6
4. Funding of political parties	8
5. Gifts, hospitality and entertainment	8
6. Travel and representation expenses	9
7. Cash control and recording of grants	9
8. Selecting contractors and subcontractors.....	9
9. Personnel recruitment.....	10
10. Training plan	11
11. Communication of this Policy.....	11
12. History, approval and entry into force.....	12
13. Follow-up, continuous adaptation and amendment of the Policy	12
14. Commitment and acceptance by the recipients of the Policy.....	13
Annex.....	14

INTRODUCTION

The aim of this Corruption, Fraud and Conflicts of Interest Prevention Policy (hereinafter, the "Policy") is to establish how to apply controls in relation to the aforementioned risks at the Catalan Institute of Nanoscience and Nanotechnology (hereinafter, "ICN2") as well as in relation to the Recovery, Transformation and Resilience Plan (hereinafter, the "RTRP"). This is why, unless otherwise stated, all mentions of the RTRP shall be deemed to include all other types of funds managed by ICN2.

This Policy sets out the behaviours to be avoided and the key aspects, including human, organisational and documentary ones, that must be applied by ICN2 to prevent acts of corruption, fraud or conflicts of interest in every area of the organisation. It is supplemented by ICN2's Procedure for managing conflicts of interest.

The actual and effective application of the prevention and control measures set forth in this Policy shall be ensured at all levels of ICN2 to ensure that this self-regulation system eliminates all conducts that may jeopardise ICN2's public service aims, the implementation of the RTRP and the intended use of public funds.

1. SCOPE

The scope of application of this Policy is as follows:

Subjective scope: This Policy applies to ICN2 at every level, including its governing and management bodies, control bodies and all personnel regardless of their position or role (hereinafter jointly referred to as the "employees" or "personnel").

Relational scope: The scope of application of this Policy shall include, to the extent possible, its contractors, subcontractors and grant managers of any ICN2 process, including the RTRP. Where this is not possible, standards of conduct, preventive measures and/or control systems shall be required by contract.

Objective scope: This Policy shall apply to all ICN2 activities and processes, including the implementation of the RTRP.

Geographical scope: This Policy shall apply to public and private relations in relation to any ICN2 activity or process, including the implementation of the RTRP, in any geographical area, whether local, national or international.

2. COMMITMENT TO THE FIGHT AGAINST FRAUD AND ANTI-FRAUD PRINCIPLES

Firstly, the definitions of fraud and corruption, which are dealt with throughout this Policy, are as follows:

Definition of fraud:

Based on Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law, fraud can be defined as any intentional act or omission relating to:

- a) 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;
- b) Non-disclosure of information in violation of a specific obligation, with the same effect; or
- c) The misapplication of such funds or assets for purposes other than those for which they were originally granted.

Definition of corruption:

Corruption, both public and private, can be defined as an individual's misuse of a given situation, infringing legal provisions or social rules, for private gain for their own benefit or that of third parties. Examples of corrupt conduct include the payment of bribes, embezzlement of funds or failing to follow established procedures to achieve a specific goal.

The following acts of corruption are worth mentioning as punishable offences:

a) Payment of bribes: Where a person offers or gives any kind of remuneration to persons with public functions to make them perform an act that is contrary to the duties inherent to their position, not perform it or delay it without justification or in consideration of their position or duties.

b) Influence peddling: Where a person attempts or succeeds in influencing the actions of a public official using their personal relationship with such official in order to obtain a benefit for themselves or a third party.

c) Embezzlement of public funds: Where a person administers public funds dishonestly, misappropriates them or commits false accounting.

d) Grant fraud: Where a person misrepresents the fulfilment of the conditions for obtaining a grant or uses the grant for purposes other than those for which it was awarded.

e) Illegal funding of political parties: Where a person makes donations or contributions to a political party in breach of the applicable legislation in force.

It is worth noting that fraud and corruption can occur both internally within ICN2 and through direct contact between ICN2 and a third party, as well as indirectly through someone related to the latter (such as a contractor or subcontractor or a grant manager) or through a relative or friend.

ICN2 hereby states that it considers non-compliance with anti-fraud and corruption regulations to be a very serious offence, as fraud and corruption:

- Have a negative impact on social, economic and environmental development;
- Undermine social trust;
- Divert resources earmarked for specific purposes;
- Distort the economy and the market;
- Restrict some basic rights.

Any involvement in fraud or corruption is contrary to ICN2's values. Therefore, the provisions of this Policy and the values set forth in it must be adhered to at all levels of the organisation.

Breach of these or involvement in acts of fraud or corruption shall give rise to disciplinary action. This is without prejudice to any legal action that may also be taken against the person who engaged in such acts and in defence of ICN2.

In view of all of the above, in addition to the principles set forth in the Policy for the Application of the Principles of the RTRP, the organisation shall apply the following principles in relation to the prevention of corruption, fraud and conflicts of interest:

- **Principle of proportionality:** The anti-fraud and anti-corruption rules in place shall be appropriate for the activities carried out at ICN2 and shall mitigate any risks that arise or may arise in this regard.
- **Principle of commitment of the governing bodies:** The governing bodies shall be involved in developing the anti-fraud and anti-corruption rules that may be established and ensuring they are complied with.
- **Principle of risk assessment:** The risks of fraud, corruption and conflicts of interest that may be detected shall be identified, analysed and mitigated in accordance with the activities carried out by ICN2.
- **Audit principle:** Audit and review processes may be carried out prior to and during public fund management processes in order to avoid, among other things, the risks of fraud, corruption and conflicts of interest.
- **Principle of communication and training:** All anti-fraud and anti-corruption rules established by ICN2 shall be made known to all those persons to whom this Policy is addressed.
- **Zero tolerance:** ICN2 will not tolerate any type of conduct capable of constituting corruption, fraud or a conflict of interest.
- **Documentation:** ICN2's most relevant processes shall be documented and form the subject of specific procedures to ensure that they are always applied in the same way, avoiding the use of discretion.

3. DEALINGS WITH CONTRACTORS, SUBCONTRACTORS AND GRANT MANAGERS

ICN2 bases its dealings on the principles of transparency and equal opportunities and rules out any illegal actions aimed at defrauding public funds or breaking the law, internal regulations or its own principles of action. In its dealings with contractors, subcontractors and grant managers, ICN2 shall act as follows:

- Any public funds to be managed by ICN2 through procurement, as well as all the processes carried out by it (such as applying for a grant), shall be carried out in accordance with the current legislation, internal instructions or the terms and conditions of the tenders or calls for tenders, refraining from carrying out any acts contrary to the aforementioned regulations, such as engaging in grant fraud or fraud against the public sector.
- ICN2 shall refrain from appointing for the management of public funds any persons who are or are going to be contractors or subcontractors of the public funds. It shall

also refrain from allowing third parties who may have an interest in the processes carried out by it to be involved.

- The management of public funds and the related decision-making shall always entail the review of all decisions by the various departments involved in the fund management process, and any decisions relating to them shall be documented in order to ensure they are adequately traceable.
- When it comes to managing the RTRP, ICN2 shall draw up a map of relationships with the RTRP, which shall be reviewed periodically. It shall identify in the same document at least the public administrations with which ICN2 has dealings in this area, as well as the contractors and subcontractors, the reason for such dealings and whether any risk of corruption or fraud has been identified.
- The performance of any of the following acts shall be considered an unlawful advantage:
 - a) Acts contrary to the duties inherent in the position.
 - b) Acts inherent in the position itself intended to delay or avoid carrying out another act that should be carried out.
 - c) Acts that allow access to insider information (such as access to the draft of the terms of a public tender or grant award or to their final version or amendments).

Consequently, ICN2 personnel involved in the management of any public funds such as the RTRP:

- a) May not accept money, gifts or any other financial benefit or property in their capacity as holders of their position or role, subject to the exception set forth in Section 7 below;
- b) May similarly not accept an offer or a financial benefit or property in exchange for carrying out acts in favour of contractors, subcontractors or grant managers.

Any offer of such nature must be reported through the channels established for this purpose or, in their absence, to the affected person's hierarchical superior.

- No action or strategy based on the guidance or influence resulting from a personal relationship with a contractor, subcontractor, grant manager or public official may be carried out in order to obtain a resolution that may directly or indirectly lead to an undue financial benefit or prevent any kind of loss for a third party.
- Acts capable of constituting influence peddling are prohibited. In particular:
 - a) Directly influencing a public official or authority involved in the management of public funds or any ICN2 process.
 - b) Indirectly influencing by accepting a third party's offer to obtain favourable treatment in any process such as the management of the RTRP.

- c) Preparing and supporting a trusted person to occupy a specific position related to ICN2's processes.
 - d) Asking for, or obtaining, favours or promises of favours in exchange for obtaining a position for a specific person in relation to the processes.
 - e) Offering a position to a specific person in exchange for them influencing decisions in the processes.
- The use of violence or intimidation against a person for the purpose of getting them to carry out or fail to carry out a legal act or transaction is similarly prohibited.
 - ICN2 may be consulted on its opinion regarding a specific rule, initiative, process, etc., related to its processes, such as the management of the RTRP, provided this is done through the public channels established for this purpose. A distinction must therefore be made between two situations:
 - a) The act of submitting a request to ICN2 by officially contacting it through the official channels and/or employees designated for the receipt of requests; and
 - b) The act of influencing a person in a specific position with whom there is a direct or indirect personal relationship that makes it possible to obtain favourable treatment. The latter is the one to be avoided.

4. FUNDING OF POLITICAL PARTIES

Acts capable of constituting illegal funding of political parties or of foundations or associations related to them are prohibited.

ICN2 must analyse public fund management projects such as the RTRP in advance to check that they are not related to the direct or indirect illegal funding of a political party.

Furthermore, it may not attend meetings with lobbies, unless it is considered that their activities cannot constitute influence peddling or illegal funding of political parties and they are consistent with its principles and their implementing policies.

5. GIFTS, HOSPITALITY AND ENTERTAINMENT

ICN2 operates in accordance with the principles of free competition, free market and free access to the market. In the management of gifts, hospitality, entertainment, institutional events, training courses, etc., it shall always apply as a general guiding

principle Art. 54-5.6. of the Basic Statute on Public Employees: Public assets and resources shall be administered austerely and shall not be used for a person's own benefit or that of the people close to them, and any gift, favour or service under advantageous conditions beyond what is usual, social or for courtesy shall be refused or given away (...). ICN2 shall also apply its general rules approved for the management of such matters.

6. TRAVEL AND REPRESENTATION EXPENSES

Travel and representation expenses shall mean those expenses incurred on behalf of ICN2 relating to travel, accommodation, vehicle rental, meals, etc., that are necessary for the implementation of the various projects. These shall be governed by the provisions of the employee travel expenses policy approved by ICN2.

7. CASH CONTROL AND RECORDING OF GRANTS

The use of cash shall be eliminated from all processes, and transfers shall be used instead.

The following measures shall be applied where possible and to the management of RTRP funds in any event:

Use of the transfer system established in HFP Order 1030/2021, of 29 September.

A record of payments, which must be fully traceable, shall be kept. This record shall specify, among other things, the amount paid, the reason for the payment, the date of payment, the recipient and the purpose of the payment.

Payments or disbursements of funds may under no circumstances be made to any natural or legal persons other than those for whom they are intended. If an undue payment is made, its return must be requested through the Procedure for the Recovery of Fraudulently Spent EU Funds.

8. SELECTING CONTRACTORS AND SUBCONTRACTORS

ICN2 shall monitor contractors and subcontractors in proportion to the level of risk of corruption, fraud and conflicts of interest posed by them.

Contractors and subcontractors must be chosen in accordance with the public procurement legislation and on the basis of objective criteria such as (but not limited to):

- a. Price
- b. Quality
- c. Ability to deliver
- d. General level of service
- e. Reputation
- f. Integrity

The selection process must be based on transparency and traceability criteria. This requires the acts and decisions adopted to be documented.

ICN2 shall ensure that contractors and subcontractors have an adequate level of professionalism and demonstrate their commitment to the organisation's principles, as well as to the contents of the RTRP where applicable.

The analysis of the level of risk posed by a contractor or subcontractor will depend, among others, on the following factors:

- a) The level of corruption and regulation in the country where it has its headquarters.
- b) The origin of the products or services supplied or provided by it.
- c) How closely it is related to a tax haven.
- d) Any requests for payments in cash or to companies other than the contractor or subcontractor itself.
- e) Whether the contractor or subcontractor has been recommended by a person in a public position.
- f) How closely it is related to the public sector and the latter's influence in its activities.
- g) Its reputation in the market.
- h) Its business history and history of legal proceedings.
- i) Whether it has sufficient human and material resources to carry out the planned activity.
- j) The degree of knowledge regarding its actual shareholders.
- k) Depending on these factors, the contractor or subcontractor may be classified according to its level of risk, which shall determine the frequency and scope of the checks to be carried out by ICN2.

9. PERSONNEL RECRUITMENT

Personnel recruitment processes for both permanent and temporary roles and collaborative or research positions shall be governed by the principles of competence, objectivity, suitability, impartiality, fairness and merit. All these processes shall be documented.

10. TRAINING PLAN

ICN2 shall promote ongoing training and awareness-raising activities on fraud risks, corruption and conflicts of interest and related controls, as well as on the main ones applicable to the RTRP, at all levels of the organisation.

All ICN2 personnel involved in its processes and the RTRP must receive training and actively take part in the training courses or actions provided. Similarly, all newly recruited personnel must receive training in this area as a requirement under their contractual relationship with ICN2.

The training may be provided in person or as e-learning courses.

Awareness raising can be based on any type of communication and training materials and tools that raise awareness of the issue at all levels of the organisation (e.g. e-mails, departmental meetings, messages from management, etc.).

ICN2 shall carry out the following training and awareness-raising actions:

- a) Drawing up a Training and Awareness Plan on fraud, corruption, conflicts of interest and the RTRP.
- b) Managing the preparation and delivery of training materials.
- c) Monitoring the provision of training.
- d) Evaluating its results.
- e) Ensuring the traceability of the training sessions held.
- f) Obtaining evidence of the training sessions held (materials, attendees, etc.).
- g) The training plan must contain at least the following:
 - An annual training session on the areas that are most sensitive to fraud, corruption and conflicts of interest and the management of RTRP funds, taught by an internal or external professional specialising in the field.
 - Specific training sessions aimed at new employees, including temporary ones, when they join the organisation.
 - Periodic releases of documents and/or information materials for all employees and third parties, including contractors and subcontractors, as well as anyone involved in the RTRP.

The person responsible for teaching the training courses shall draw up a certificate for each course certifying that it has been completed, passed and attended, and including its format, dates and contents.

ICN2 shall adopt any disciplinary measures it deems appropriate, in accordance with the legislation in force applicable in each case, in relation to any personnel who refuse to take part in, and/or pass, the training courses or actions held.

In relation to the RTRP, ICN2 shall monitor the progress of the following training and awareness-raising parameters:

- Number of training sessions, delivered both in person and as e-learning courses.
- Number of awareness-raising campaigns.
- Percentage of employees who have received training at every level of ICN2.
- Degree of evidence of the training provided.

11. COMMUNICATION OF THIS POLICY

All the persons at whom it is aimed must be familiar with the provisions of this Policy.

In addition, a copy shall be distributed, either electronically or on paper, to all its intended recipients.

ICN2 shall retain sufficient evidence of actual delivery of the Policy to all the persons mentioned above and of their undertaking to comply with it.

12. HISTORY, APPROVAL AND ENTRY INTO FORCE

History:

The following table reflects the different versions of the Policy that have been drawn up, as well as the date and subsequent modifications that each version of the document may have undergone:

VERSION	DATE	AUTHOR	CHANGES
1.0	November 2022	Persons responsible for the AFMP	Initial version

Approval and entry into force:

This Policy shall be approved by ICN2's governing body, and it shall come into force on the date of its approval.

13. FOLLOW-UP, CONTINUOUS ADAPTATION AND AMENDMENT OF THE POLICY

Follow-up and continuous adaptation:

Periodic revisions of the content of the Policy shall be established in order to ensure that it is always appropriate for ICN2's circumstances, legislative changes, changes to the

case law, etc. The Policy shall thus be adapted in accordance with the case law criteria established by the courts and the criteria established in the guides, reports or resolutions of any public administration that may be applicable to the Policy.

In addition, the rulings and delegated acts issued by the services of the European Commission in relation to the requirements for each of the RTRP management principles shall also be taken into account when updating the Policy.

Amendments:

ICN2 may amend the Policy on its own initiative and/or at the proposal of any of its intended recipients, and the amendments shall always be reviewed by the person responsible for the RTRP. Amendments to the Policy shall always be proposed in the following cases: (i) If serious breaches of the Policy become apparent; (ii) if there are significant changes to ICN2's control structure or its activity according to the powers that may be attributed to it; and (iii) if advisable due to changes to legislation or the case law.

14. COMMITMENT AND ACCEPTANCE BY THE RECIPIENTS OF THE POLICY

All recipients of this Policy must be familiar with it, actively contribute to its compliance and consider any breaches they may be aware of, as well as any defects they may observe in its content or development.

Anyone who observes a breach of the Policy or signs or evidence of a fact capable of constituting an unlawful act of corruption, fraud or breach of regulations, including both laws and ICN2's internal rules, must bring this to the attention of ICN2 through any of the communication channels established by the organisation.

ANNEX I – ACKNOWLEDGEMENT OF RECEIPT OF THE POLICY

Internal receipt of the Policy

By signing this document, I certify that I have received, read and understood the Corruption, Fraud and Conflicts of Interest Prevention Policy. I also undertake to adhere and comply with it.

Furthermore, I understand that failure to comply with its content could lead to a disciplinary sanction by the Catalan Institute of Nanoscience and Nanotechnology (ICN2).

DATE:

NAME/ID (DNI):

SIGNATURE: