



ANTI-FRAUD ACTION PLAN II

FRAUD RISK IDENTIFICATION AND ANALYSIS

| Index | PG |
|------------------------------------------------------------------------------------------------------------------------|-----------|
| Introduction..... | 3 |
| 1. Characteristic features of ICN2..... | 5 |
| 2. History..... | 8 |
| a. Interviews conducted..... | 8 |
| b. Documentation studied..... | 8 |
| c. Regulations observed..... | 9 |
| 3. Determination of the management processes of the European NGEU funds at the ICN2 and the concept of fraud risk..... | 10 |
| 4. Fraud risk analysis in the management of European NGEU funds at the ICN2..... | 13 |
| a. Variables used to calculate the risk of fraud in risky activities | 14 |
| b. Risk map..... | 18 |
| 5. Detailed study of the processes with risk of fraud detected..... | 20 |
| 6. Description of fraud risk control tools..... | 21 |
| 6.1. Included as mandatory or minimum requirements of the PMA ex arts. 6.4 and 6.5 of the Order..... | 22 |
| a) Declaration of Absence of Conflict of Interest (DACI)..... | 22 |
| b) Policy and Plan for the Prevention of Corruption, Fraud and Conflicts of interests..... | 23 |
| c) Regulations for the investigation of infringements..... | 23 |
| d) Procedure for the recovery of fraudulently spent PRTR funds and for the prevention of double financing..... | 24 |
| e) Procedure for the prevention and correction of situations of Conflict of interest..... | 24 |
| 6.2. Recommended based on the contents of the management systems..... | 24 |
| a) Communication Channel..... | 24 |
| b) Training and awareness..... | 26 |
| d) Disciplinary system..... | 27 |
| Appendices..... | 29 |

Introduction

As stated in the Legal and Content Report of this work, it is the will of the Catalan Institute of Nanoscience and Nanotechnology (hereinafter, the ICN2) to develop and implement in its structure a management system for the Recovery, Transformation and Resilience Plan (hereinafter, PRTR). Objective for which it is necessary, among others, to create an Anti-Fraud Measures Plan (hereinafter PMA) in the terms defined in the aforementioned Legal and Content Report.

Order HFP/1030/2021 of 29 September 2021 configuring the management system of the Recovery, Transformation and Resilience Plan (hereinafter, the Order) requires the WFP to carry out an assessment of the risk, impact and probability of the risk of fraud in the key processes of the implementation of the PRTR. And, at the same time, it stipulates a series of mandatory and minimum requirements that the WFP will also have to observe. Requirements that materialize with this document and its Annexes.

It should be noted that the following methodology has been used to carry out the analysis of the risk of fraud pointed out:

(i) Fieldwork through which information and data are collected that reflect the nature and reality of the activities and processes developed by the ICN2 in relation to the management of European funds. To do this, questionnaires are requested and a series of interviews are held with the staff deemed necessary;

(ii) Study of relevant documentation affecting fund management processes
ICN2 European Championships;

(iii) Review of regulatory standards, as well as the main legislation that affects the management activity of the European Next Generation EU funds (hereinafter NGEU).

From there, the processes of each department or area of the ICN2 relating to the management of European funds are related to the possible fraud behaviours that could be observed, in hypothetical terms, in them. And, in turn, the means of control that the ICN2 already has in place to mitigate the risk of committing these behaviors are identified. In addition, additional control measures that may be implemented in these ICN2 processes are reflected, when recommended. It is, therefore, the identification and description of risks, their evaluation and proposals for preventive and/or corrective measures to be applied to them. All this with the aim of reducing as much as possible the tolerable residual risk of the ICN2 processes in the management of the European NGEU funds.

Finally, it also defines the other structural elements that a WFP must support, such as, among others, a Policy and Plan for the Prevention of Corruption, Fraud and Conflicts of Interest or the Procedure for the Internal Investigation of Infringements. All of them have been adapted to the reality of the ICN2 and complied with the requirements of the Order.

All of these elements must be understood as integrating a valid and effective control system in the ICN2 that aim to establish a better system of integrity and public compliance in its structure. To this end, we can point to the OECD Recommendation on Public Integrity, which provides policymakers with guidance for designing a public integrity strategy, shifting the focus from ad hoc integrity policies to a comprehensive risk-based approach with an emphasis on promoting a culture of integrity based on three pillars:

- System: Have a system to reduce opportunities
- Culture: Changing a culture to make corruption socially unacceptable
- Accountability: Holding People Accountable for Their Actions¹

[The greatest detail of all the above is provided throughout this document. It is also intended to state that the Policies, Regulations and Procedures provided herein, through the Annexes, have been drafted in a broad way, that is, with the aim that they can be used for all the ICN2 processes where they have a place; so that its application is not restricted solely to the management of NGUE funds. All this with the aim of consolidating process control tools and a good compliance and integrity management system at the ICN2].

¹ Campos Acuña, Concepción: "Practical Guide to Compliance in the Public Sector", Wolters Kluwer 2020.

1. Characteristic features of ICN2

ICN2 is an international non-profit research institute located near Barcelona. Its purpose is to identify and promote research and innovation in the field of nanoscience and nanotechnology, promoting the closest interrelationship between basic, applied research and the market, in order to achieve excellence in this field and become a world reference centre.

The mission of ICN2 is to achieve scientific and technological excellence at the highest level in this field. All human and material resources, initiatives and activities developed by ICN2 are aimed at fulfilling this mission.

Its milestones, objectives, research and projects can be consulted in more detail in its Statutes, in the Annual Reports published on its website² as well as in its Strategic Plan 2021-2024.

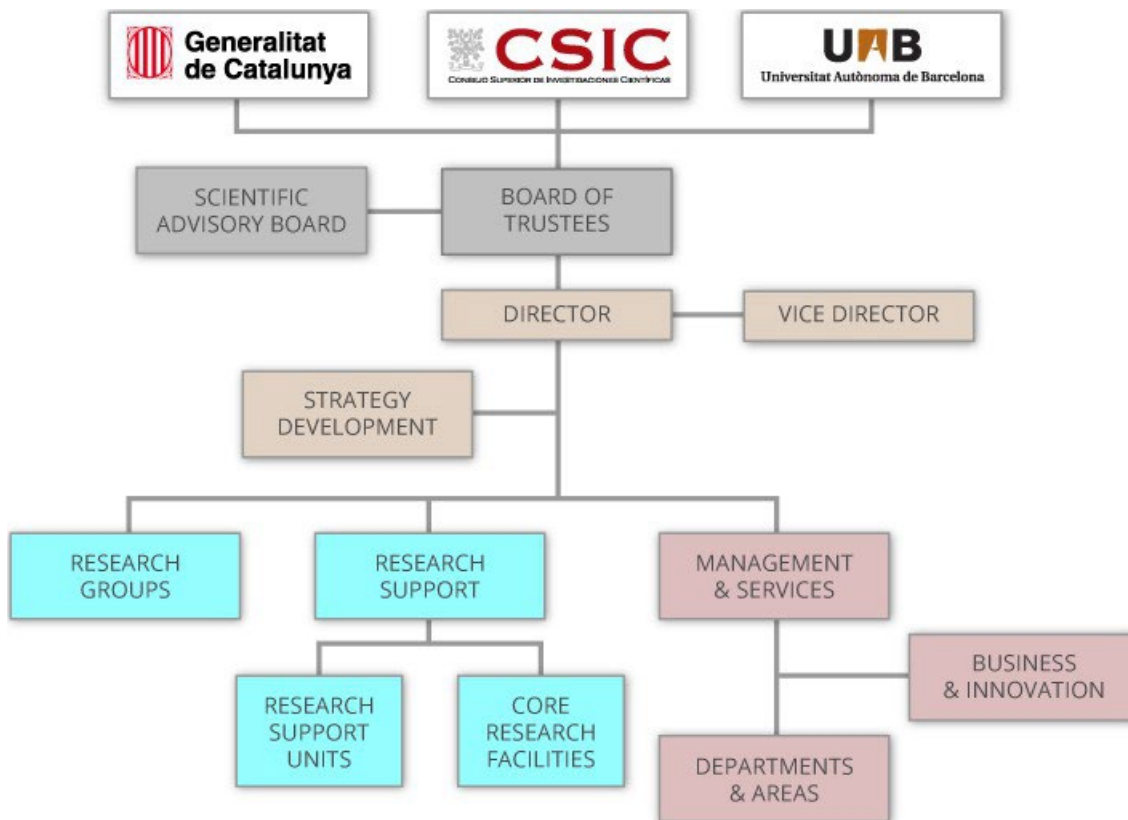
However, ICN2 is a CERCA Centre and is therefore adhered to its Code of Conduct.

ICN2 was accredited in 2014 as a Severo Ochoa Center of Excellence, a recognition renewed in 2018 for a period of more than 4 years. The Severo Ochoa Program, sponsored by the Spanish Ministry of Science, Innovation and Universities, aims to identify and support Spanish research centers that are among the best in the world in their specialty.

Likewise, since the institution is a foundation, its governing body is a Board of Trustees, whose trustees are the Generalitat de Catalunya (head of the Department responsible for research, the Director General of research and a designated trustee), the Spanish National Research Council (CSIC, its president and two designated trustees) and the Autonomous University of Barcelona (UAB, its Rector), where it has its headquarters (UAB Bellaterra Campus).

Its workers are organized into different Departments (organizational chart is provided):

² The 2020 Annual Report is provided at the following link: <https://icn2.cat/annual-reports/2020/>



Likewise, ICN2 is directed by its Director, Professor Pablo Ordejón, who reports to the Board of Trustees and is advised by the Scientific Advisory Board made up of numerous distinguished international scientists.

The research activities are led by the *Group Leaders*, who are internationally renowned senior scientists who lead research teams focused on their respective areas of expertise. Its activity is supported by engineers from specialized laboratories and technical and administrative staff.

ICN2 consists of 20 Research Groups, 9 Development and Technical Support Units and Facilities and 2 Research Platforms, covering different areas of nanoscience and nanotechnology. The 8 departments and areas of administration, supervised by the General Manager of ICN2, Mr. Lluís Bellafont, support the research activity with their services and actions.

As internal stakeholders it is necessary to highlight the workers; the external stakeholders being, to a large extent, contractors, subcontractors, suppliers, administrations and citizens and companies linked to the sector.

Both the Board of Trustees and the General Management convene regular meetings during the year where the necessary decisions to govern the ICN2 are made and matters of interest are reported.

2. History

The development of this fraud risk analysis is guided by the following steps:

A fraud risk study of the ICN2 has been carried out, in which the processes of management of European funds are analysed, as well as the risks and control mechanisms observed in relation to the former and, where appropriate, the preventive improvement proposals that have been considered necessary have been proposed.

To this end, the current status of the different ICN2 processes related to the management of European funds has been reviewed, so that (i) interviews have been carried out with the people who are now detailed and (ii) the documentation that is also indicated here has been studied.

The conduct of these interviews, as well as the review of the documentation, has made it possible to identify the functional organizational chart of the ICN2 (and its departments), its area of responsibility, specific activities that they carry out and risk control systems that they have already implemented. All of the above in relation to the processes of European NGEU funds.

The interviews conducted and the documentation reviewed are detailed:

a. Interviews conducted (interviewees with indication of their position in the At the time of the interview):

- Mr. Julio Gómez – Head of Human Resources (April 19, 2022)
- Ms. Mireia Martí – Head of Competitive Founding (April 19, 2022)
- Ms. Estefanía Latorre – Management and Technical Support Coordinator (recruitment and support area for Mr. Lluís Bellafont) (April 21, 2022)
- Ms. Emma Gómez – Competitive Founding (Department Coordinator) (21 April 2022)
- Mr. Lluís Bellafont – General Manager (April 26, 2022)
- Ms. Judit Vela – Head of finance (April 26, 2022)
- Ms. Emma Nieto - Head of Accounting (Coordinator) (26 April 2022)
- Mr. Josep Salvador - Head of Administration (Coordinator) (April 26, 2022)

b. Documentation studied (the most relevant is highlighted):

- Review of the questionnaires completed by the ICN2. These are the following:
 - Questionnaire C 0 "Risk Identification Questionnaire"
 - Questionnaire Annex II.B.5 of Order HFP 1030/2021 of 29 September configuring the management system of the Recovery, Transformation and Resilience Plan (self-assessment)

- Status of ICN2
- Functional organization chart of the ICN2 (according to departments published on the website)
- Code of Conduct SEARCH application to ICN2
- INC2 Code of Conduct in Research
- Strategic Plan 2021-2024
- Audit report of the Autonomous Communities 2020
- Collaboration agreement signed between ICREA and ICN2 2020
- Collaboration agreement signed between the CSIC and the ICN2 2018
- ICN2 Collective Agreement 2015
- ICN2 recruitment process
- Agreement of accession of the ICN2 to the WFP of the Generalitat de Catalunya of 4 March Sep. 2022
- Sample of an expense justification for a project
- Sample of supporting report, certificate of credit sufficiency, legal report and approval of a contracting file
- Sample of an opening act of a single envelope of a tender
- Sample of a certificate of delivery and receipt of a machine
- Sample of a report of installation and commissioning of a machine
- Sample of a tender announcement
- Sample of a minor contract
- Excel table for monitoring tender forecasts
- Sample of a bid evaluation report for a minor contract
- Sample of annual recruitment forecast communication by the ICN2
- ICN2 general rules for invitations, institutional events, workshop lunches, etc.
- ICN2 contract staff travel expesense policy

Finally, and in addition to the above, meetings have been held to monitor the development of the WFP with the members designated as interlocutors: Mr. Lluís Bellafont and Ms. Estefanía Latorre.

c. Regulations observed:

For the development of this analysis, the regulations indicated in point 2.a of the Legal and Content Report have been observed.

3. Determination of the management processes of the European NGEU funds at the ICN2 and the concept of fraud risk

Art. 6.5.c of the Order requires the WFP to carry out a risk assessment and impact and probability of the risk of **fraud** "in the key processes of the implementation of the PRTR". From this point on, it has been understood that these processes, at ICN2, will be the ones to manage European funds (as an executing/instrumental entity or beneficiary of the same) and meaningfully through two specific processes: (i) The receipt of public subsidies and (ii) Administrative contracting (also contemplating the possibility of hiring new staff for the management of NGEU funds).

The processes that will therefore be analysed and evaluated will be these two, without prejudice to the fact that they may be extended to the periodic reviews carried out by the WFP if necessary.

Likewise, it has also been necessary to define what is meant by *fraud* risk and thus establish the specific eventuality that will be analysed as a risk in the two previous processes. We explain here how the concept of fraud risk has been determined and the following steps taken in this study to identify and analyse it:

a) Identification of the risk of fraud³: In this phase it has been necessary to establish the concept of *fraud* since it can have several meanings and, once established, we have taken it as the risk situation to be analysed in the process of managing European funds (we will have conceptually identified the risk of fraud). Also understanding as the management of these funds, as we have advanced, the procedures used to allocate the financing to their recipients, i.e. the ICN2 as a beneficiary of aid (subsidies) or successful bidders of a contract or subcontractor (administrative contracting managed by the ICN2), whether they are natural or legal persons.

The Dictionary of the Catalan Language of the Institute of Catalan Studies defines the word *fraud* as "the action of deceiving someone to obtain an advantage to the detriment of him", a description that would fit our work because, in effect, the fraudulent subject will seek to obtain European funds through deception to the detriment of the European Union (hereinafter, the EU) and the other administered subjects. From there, we have established the means through which the fraudulent subject could generate this deception, with three possibilities:

Any intentional act or omission relating to (i) the use or presentation of false, inaccurate or incomplete declarations or documents, which have the effect of improperly receiving or withholding funds from the general budget of the European Communities or from the budgets administered by or on behalf of the European Communities; (ii) Failure to comply with an obligation

³ It should be noted that, based on the requirement of Order HFP/1030/2021 in its art. 6.5.c, only the risk of fraud in the management process of the European NGEU funds is analysed, without prejudice to the

fact that this
analysis can be transferred to other ICN2 processes.

expressly to communicate information that has the same effect and (iii) to the diversion of these same funds for purposes other than those for which they were granted at the beginning and that harms the financial interests of the EU4. These three facts are those that are identified as fraud risk in the two processes that will be analysed within the ICN2 European funds management process⁵. It is worth mentioning that the risk of conflict of interest and corruption, despite not being expressly pointed out by the Order, is also analysed to the extent that these possible behaviours are pointed out in the processes analysed. To this end, work has been done with the definitions of conflict of interest and corruption also provided by the Order in its Annex III.C.

- b) Fraud risk analysis:** In this second phase, through the study of questionnaires provided by the ICN2, interviews with members of its structure and review of relevant documentation (as pointed out in point 2 of this work), the risk of fraud has been located in the reality of the ICN2 European funds management process. Some risk factors reviewed, in order to determine the risk of fraud, have been the following: Existence of controls; the existence of policies and procedures; supervision of operations; existence of conflicts of interest; segregation of duties; conducting audits; existence of a Code of Conduct, etc.
- c) Fraud risk assessment:** In this phase, the impact and probability of fraud risk occurring in the specific process have been studied, so that it has been possible to analyse the risk and obtain objective data on it that allow us, in relative terms, to assess it (initial determination of the inherent risk). It has also been identified which control measures on the risk of fraud are already in place in the specific process of managing the ICN2 funds (existing control measures) and those that, on a complementary basis, would be appropriate to establish in order to reduce the residual risk of fraud as much as possible have been recommended. An operation that has made it possible to obtain the residual risk of fraud. This task has been carried out by the ICN2.
- d) Risk treatment:** This fourth phase will be carried out once the PMA has been approved by the corresponding ICN2 body. It consists of drawing up an Action Plan containing the recommended control measures that must be followed by the ICN2 in the process of managing European funds. This Action Plan must establish who is responsible for each established measure (person or area responsible), when they must be carried out (deadline for implementation) and how (designation of resources).
- e) Follow-up:** This last phase consists of carrying out periodic monitoring of the implementation of the PMA and thus assessing its effectiveness (assessment of the effectiveness of the established controls -preventive measures already observed in the ICN2 and those recommended

⁴ Definition established on the basis of art. 3.1 of Directive (EU) 2017/1371, on the fight against fraud affects the financial interests of the Union.

⁵ The risk of fraud will be measured in relation to the conduct of both the ICN2 and third-party

beneficiaries of the funds.

to establish additionally-). It is also advisable to review possible new risks that need to be analysed, evaluated and treated at this stage. It is also recommended to prepare, at this stage, a monitoring report or Annual Report. All this taking into account the necessary determination of the Head of the WFP as explained in the Legal and Content Report.

- f) Risk assessment as systemic or punctual:** In the event that fraud is detected in the previous phase of consummation of the control of the process, it will be necessary to classify it as systemic or punctual and, in any case, withdraw the projects or part of the projects affected by the fraud and financed or to be financed by the Recovery and Resilience Mechanism -MRR- (the Policies of the Annexes specify the steps to be followed in these cases).

Based on the above, we can affirm that the scope of the analysis will be that of the risk of fraud, understood in the terms described herein, in the processes of administrative contracting and receipt of subsidies derived from NGEU funds at the ICN2.

Finally, we will point out that where there is access to public resources and decision-making capacity, even more so in relation to NGEU funds given the high amount of money that will be delivered and the speed of this distribution, there are risks to public integrity such as corruption and fraud.

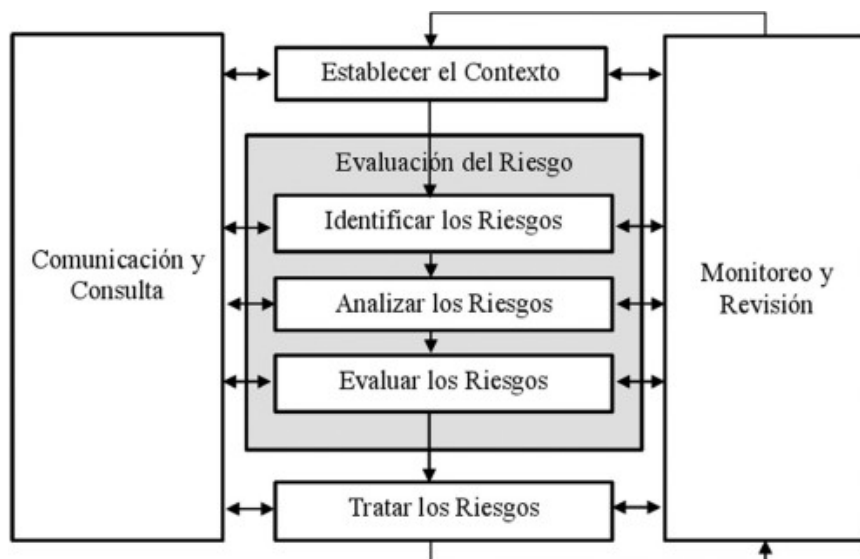


Thus, in all public organizations there are risks of corruption and fraud; and the purpose of managing them by applying the WFP is, precisely, to guarantee that the resources from the PRTR are allocated to the intended purposes and that decision-making capacity is used to sustain and prioritise the public interest over private interests⁶.

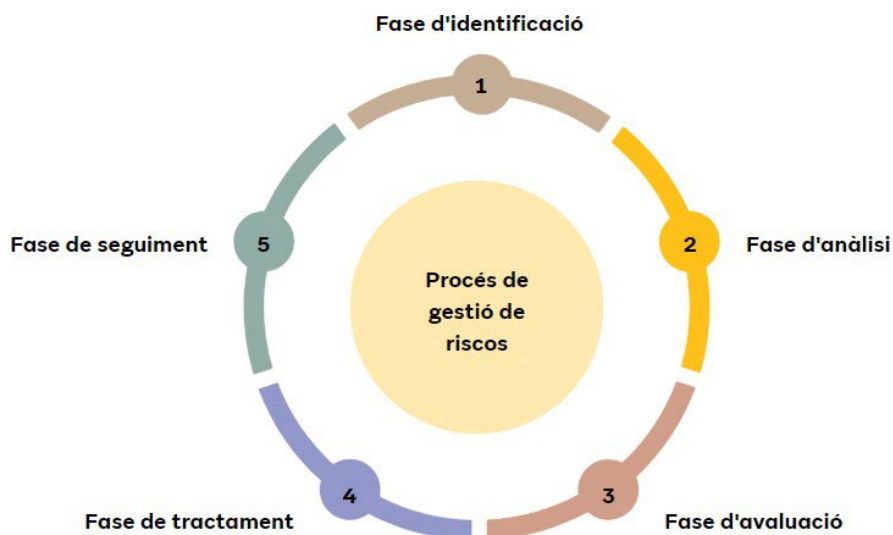
⁶ Guide to drawing up an Anti-Fraud Measures Plan for the management of the Next Generation funds of the Anti-Fraud Office of Catalonia.

4. Fraud risk analysis in the management of European NGEU funds at the ICN2

Firstly, and by way of illustration, the analysis scheme contained in the UNE-ISO 31000:2010 on Risk Management, which has been applied to this PMA, is accompanied:



In the same way, the risk management process recommended by the Anti-Fraud Office of Catalonia has also been followed, which follows the same steps established in the UNE-ISO 31000:2010 on Risk Management:



It can be stated that, based on the study of the specific activity and nature of the ICN2 in the field of management of European funds, in the terms that have been explained here and following the methodology also reviewed here, a potential risk of fraud has been detected in the two procedures indicated. The results are shown in the EXCEL TABLE developed by ICN2.

a. Variables used to calculate the risk of fraud in activities exposed to risk

The excel table shows the analysis of the key processes in execution of the PRTR with potential risk of fraud in the ICN2. As we indicated in the previous point: Management process of European funds NGEU (Subsidies/Administrative Contracting).

The aim is to classify the different activities of these according to their inherent risk in order to apply an action plan that allows them to mitigate this risk or, where appropriate, minimise their residual risk.

To this end, the risk table has been drawn up using the methodology described in the Plan of Anti-Fraud Measures of the Generalitat de Catalunya, divided into the following phases:

4.1 Identification phase of procedures susceptible to risk

Firstly, it must be decided what would be the classification of the areas susceptible to risk. In this phase, each entity, depending on its casuistry, must define a process map and identify the key procedures that affect the management of the funds.

4.2. Quantification phase of procedures susceptible to risk

Once the procedures susceptible to risk have been identified, they are quantified through two phases:

- Step 1. Determination of inherent risk: the risk that exists prior to the activation of control mechanisms to combat risk situations.
- Step 2. Determination of residual risk: the risk that remains after the controls and the various risk reduction measures.

Here's how to calculate inherent risk and residual risk:

Step 1. Determination of inherent risk

This phase is based on a double perspective. On the one hand, in the probability

occurrence of the risk and, on the other hand, on the impact on the organization's objectives in terms of

case of materialization of the risk. The graduation of both variables makes it possible to calculate the degree of inherent risk. The organization's preventive actions should prioritize procedures that present a higher inherent risk.

A. Probability of occurrence

It is the opportunity for a risk event to occur within all possible cases. It is measured according to frequency (number of times the risk has occurred in a given period) or by feasibility (internal or external factors that may determine that the risk has occurred). The probabilities of occurrence of each event are classified into five levels, and a score is assigned to each level, from 1 point to the lowest probability and 5 to the highest:

- **Very low (extraordinary risk):** observed only in exceptional circumstances. No presence in the last five years. 1 point.
- **Low (unlikely risk):** may occur. It has only been observed once in the last five years. 2 points.
- **Medium (moderate risk):** still uncommon. It is observed at least once every two years. 3 points.
- **High (probable risk):** it is part of the landscape of what is considered "expected". It is observed at least once a year. 4 points.
- **Very high (constant or very probable risk):** its presence is a constant. It occurs more than once a year. 5 points.

B. Impact on the objectives in the event of the risk materialising

The aim is to capture the impact on the objectives taking into account the consequences for the entity in the event that the risk materialises. As is done for the probability of occurrence, it also has a scoring system depending on whether the severity of the consequences is high (3 points), medium (2 points) or low (1 point). Specifically, the graduation of gravity corresponds to the following:

- **High gravity.** Evidence of serious criminal or administrative offences that cause significant property or reputational damage to the institution, failure to comply with strategic objectives that affect the institutional image or the provision of services.
- **Medium severity.** Evidence of less serious criminal or administrative offences with a moderate impact on the image of the institution, other breaches of administrative rules, irregular use in the use of public means without significant damage to heritage.
- **Low gravity.** Failure to comply with operational objectives, administrative irregularities that do not imply regulatory breaches or impact on assets.

To facilitate the assignment of this score, it is advisable to fill in the following format:

Table 1. Determining the severity of the consequences for the objectives

| If the risk of corruption materializes, it could | YES | NO |
|-----------------------------------------------------------------------------------------------------------------------|-----|----|
| Affect the fulfillment of goals and objectives of The entity? | | |
| Affect the generation of products or the provision services by the entity? | | |
| To the detriment of the quality of life of the community due to the loss of the good or services or public resources? | | |
| Generate a loss of trust in the entity, affecting the reputation? | | |

| If the risk of corruption materializes, it could | YES | NO |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| Generate loss of economic resources? | | |
| Generate loss of information from the entity? | | |
| Generate intervention by external control bodies, of the Public Prosecutor's Office, the Data Protection Agency, the Anti-Corruption Office, the Audit Office, or another entity? | | |
| Give rise to sanctioning or disciplinary proceedings? | | |
| Give rise to criminal proceedings? | | |

Once these questions have been answered, a count of the number of answers is made and the following numerical rule is followed through which a score is also assigned:

- If between 1 and 3 questions are answered in the affirmative, the impact is expected to be low. 1 point.
- If between 4 and 6 questions are answered in the affirmative, the impact is expected to be medium. 2 points.
- If between 7 and 9 questions are answered in the affirmative, the impact is expected to be high. 3 points.

C. Inherent risk matrix

In order to find the inherent risk, it is necessary to multiply the score obtained in the probability by the score obtained in the impact. The result will be a number from 1 to 15 and will be placed in the following table, finding out if it is a low, medium or high inherent risk.

Table 2. Inherent risk matrix

| Probability (X) Impact (Y) | Very low | Low | Medium | High | Very high |
|----------------------------|----------|-----|--------|------|-----------|
| Low | 1 | 2 | 3 | 4 | 5 |
| Medium | 2 | 4 | 6 | 8 | 10 |
| Alt | 3 | 6 | 9 | 12 | 15 |

- Green = Low risk (final score from 1 to 3)
- Yellow = Medium risk (final score from 4 to 8)
- Red = High Risk (final score from 9 to 15)

Illustrative example:

- **Probability:** Risk X is observed at least once every two years. It is
It would be a moderate probability, therefore, it would have a score of 3.
- **Impact:** Response count: 4 yes, 5 no. Therefore, score 2.

Total: probability (3) * impact (2) = 6

Risk "X" would be a medium inherent risk, since 6 is in the yellow band, a band that comprises scores between 4 and 8.

Once the inherent risk has been calculated, it would help us to have a map of which procedures are most susceptible to risk and which are less so. Thus, it would help us to prioritize where we put a special focus or more resources in order to manage the organization's risks.

Step 2. Determination of residual risk

The next phase is the determination of residual risk, i.e. to debug the "dirty" risk with the controls that exist or that the entity may incorporate to reduce the effects of the original risks.

This stage requires an in-depth knowledge of the existing control mechanisms.

Thus, for each inherent risk, it is necessary to determine which control mechanisms can be activated and classify them according to various parameters.

Depending on their nature, they can be:

- Preventive: aims to eliminate the risk before it occurs. That is, they act as negative incentives (or disincentives). The mechanism is prior to corrupt behavior. They allow the inherent risks to be reduced to a greater extent.
- Detectives: its purpose is to know the risk at the time it occurs. They are comparable to early warning systems. The mechanism is simultaneous to corrupt behavior.
- Corrective: its purpose is to restore normality to activity once the risk of corruption has been activated and has altered the normal functioning of events. The mechanism is subsequent to corrupt behavior. They make it possible to reduce inherent risks to a lesser extent (e.g. financial or compliance audits).

Depending on their frequency, they can be:

- Newspapers: there is an established periodicity in the performance of the controls.
- Occasional: they are carried out

sporadically. According to the documentation of

the controls, they can be:

- Documented in written form.
- Not documented in writing.

The documentation of the controls refers to whether or not they are included in guides or manuals that establish the processes to be followed in the event of corruption risks, how often they are carried out and whether they are attributed to certain persons responsible for carrying them out.

Depending on their automation, they can be:

- Manuals: they require the participation of civil servants (people) to be activated. The use of authorizations via handwritten or digital signatures, the use of physical files, the performance of reviews and routine security checks are examples of this.
- Automatic: they apply technological tools (such as software or applications) that have been designed for the prevention, detection or correction of corruption risks. No one person is involved.

Each of the existing types of control must be assigned a weighting to calculate the residual risk, so that the best possible controls reduce the level of residual risk as much as possible and the rest of the controls reduce it to a lesser extent. The Office against Corruption of the Balearic Islands proposes the following weightings:

Nature:

- Preventive: 0.1
- Detective: 0.2
- Corrective: 0.3

Frequency:

- Newspaper: 0.1
- Occasional:

0.2 Documented:

- Documented: 0.2
- Undocumented: 0.3

Automation:

- Automatic: 0.1
- Manual: 0.2

Continuing with the illustrative example used above, in which the residual risk was 6 (medium risk), since it had a probability risk of 3 and an impact risk of 2 ($3 \times 2 = 6$). Let's assume that, for the procedure susceptible to risk X, which we are using as an example, there is the highest level of control (preventive nature, periodic frequency, documented, automatic). The sum of all the weights of the highest level of control would be 0.5 ($0.1 + 0.1 + 0.2 + 0.1$). This 0.5 must be applied to the numbers in the previous matrix, multiplying by 0.5 all their numbers. The matrix, therefore, would be as follows:

Table 3. Calculation and matrix of residual risk

| Probability (X) Impact (Y) | Very low | Low | Medium | High | Very high |
|----------------------------|----------|-----|--------|------|-----------|
| Low | 0,5 | 1 | 1,5 | 2 | 2,5 |
| Medium | 1 | 2 | 3 | 4 | 5 |
| Alt | 1,5 | 3 | 4,5 | 6 | 7,5 |

Next, we would apply the weighting to the results obtained when calculating the probability and impact risk of the inherent risk. Following the example we have been using, in which the residual risk was 6 (due to a probability of 3 and an impact of 2), we would obtain the following result:

- Probability risk: $3 \times 0.5 = 1.5$
- Impact risk: $2 \times 0.5 = 1$
- Total: $1.5 \times 1 = 1.5$

For the residual risk matrix, the same low, medium or high risk classification is still used:

- Green = low risk (final score from 1 to 3)
- Yellow = medium risk (final score from 4 to 8)

- Red = high risk (final score from 9 to 15)

Based on the inherent risk matrix, the residual risk in this example would be low, as a score of 1.5 sits on a final score of 1 to 3.

In conclusion, following the example, the procedure susceptible to risk X would have a medium inherent risk, whereas, once the control mechanisms are applied, the resulting residual risk would be low. This makes us see that the control mechanisms applied in the procedure susceptible to risk X are already adequate and that, therefore, they should not be reviewed

4.3. Risk treatment phase

In line with what we already stated in the conclusion of the previous section, once the procedures susceptible to risk have been assessed, the entity must determine how it will treat the procedures, according to the result obtained in the residual risk matrix. The following is proposed:

- The high-risk category (red, score from 9 to 15), in which the level of risk is considered intolerable regardless of the benefit obtained from the activity and in which risk treatment is essential.
- The medium risk category (yellow, score from 4 to 8), in which the costs and benefits of taking some measure are taken into account.
- The low risk category (green, score from 1 to 3), in which the level of risk is considered insignificant or minimal (low impact and low probability) taking into account existing controls, and in which no treatment is planned.

5. Detailed study of the processes with risk of fraud detected

Based on the methodology explained throughout this work, the study and specific detail of each of the fraud figures is provided in the aforementioned EXCEL TABLE. It reflects the following aspects from all those situations of fraud whose probability of occurrence in the ICN2 **is not remote**:

- Description of the act or procedure analysed with a risk of fraud (based on a normal fund management process). In our case, as noted above, the management process of European NGEU funds has been reviewed in two aspects: (i) Process of receipt of public subsidies and (ii) Administrative contracting process.
- ICN2 risk area and activity: Those processes in which the highest rate of risk is observed without being understood as unique.

- Control measures for the specific risk analysed observed in the ICN2 and those additional measures whose implementation, where appropriate, is recommended to mitigate the risk detected.

[As for the measures that are recommended to be implemented cumulatively, it should be mentioned that this is a proportional recommendation of measures, without it being understood as the only one to be taken into account and sometimes having to be some of them developed by technical personnel].

We must mean that each entity, due to its nature and specific activity, will have one range of risks or another, which makes it necessary to carry out an ad hoc analysis of the ICN2 such as the present one.

It is also important to bear in mind that the risks that are indicated here cannot be considered as a static *numerus clausus*, but that this analysis is based on the specific situation of the ICN2 to date and the current information reviewed; therefore, it will be essential, as we have also explained, to carry out periodic reviews of the risks detected as well as others that may arise later, so that the assessment carried out can be adopted in the context of any structural change or activity of the ICN2, as well as regulatory or jurisprudential changes that may occur in the field of its activity.

In this sense, it is advisable to review the risk map reflected in the previous section and also update it annually, as well as the EXCEL TABLE. This review can be carried out by the Head of the WFP designated by the ICN2 with the help of the appropriate staff for this task depending on the subject matter in question or through external advice.

6. Description of fraud risk control tools

As we mentioned above, once the risks inherent to its activity (in this case the risk of fraud in the management of European funds) have been identified within an organisation, it is advisable to establish, within it, control tools with respect to them (obtaining residual risk).

This section describes, from a theoretical perspective and adapted to the reality of the ICN2, the nature of some of these general/transversal fraud risk control tools that are observed by this analysis and which adoption is also recommended.

These are the following risk control tools:

6.1 Included as mandatory or minimum requirements of the PMA pursuant to articles 6.4 and 6.5 of the Order:

a) Declaration of Absence of Conflict of Interest (DACI)

This document is configured as a mandatory requirement to be fulfilled by the Managing Body of the executing entity. The aim is to document the absence of a situation of conflict of interest in the Managing Body with the functions attributed to it in the management of NGEU funds (see, in this regard, the definition of Managing Body contained in the Order and Annex IV.A of the Order to which the DACI is provided).

It is also a mandatory requirement that the DACI be assumed by all the members of the ICN2 linked to the management of European funds, without affecting the type of position or hierarchical position they occupy (see Annex IV.A of the Order where the DACI is provided). The ICN2 must identify the list of workers affected by this obligation.

In cases where a conflict of interest can be detected, the hierarchical superior will be informed of the existence of the possible conflict, who will take the corresponding decision (the procedure is included in the Conflict of Interest Management Procedure provided here as an Annex).

Finally, without prejudice to the obligation to sign the declaration in Annex IV.C of the the Order may also be requested from the beneficiaries of European funds to sign the DACI.

It is also recommended, for the purposes of documenting ICN2's true commitment to the fight against fraud, corruption and conflicts of interest, that it approve a declaration demonstrating ICN2's willingness to strengthen its anti-fraud, anti-corruption and conflict-of-interest control policy and elements. At the same time, demonstrating its commitment to compliance with legal, ethical and moral norms and its adherence to the principles of integrity, objectivity and honesty. The aim will be to make all third parties linked to the ICN2 understand their absolute opposition to fraud and corruption.

In short, it is one more element of control insofar as it helps to raise awareness among its signatories about their obligations in terms of prevention, detection and prosecution of fraud in the management of European funds.

The ICN2: As it is a new measure established in the Order, it is pending preparation. It is recommended that the Declaration of the governing body be formalised as soon as possible, with the approval of the Board of Trustees. And the formalization of the DACI of workers assigned to the management of European funds as soon as possible or, in any case, once the European funds have been granted to the ICN2 and it has

allocated them to specific purposes, that is, with the specific management process already determined and assigned to a

Responsible Subject. The beneficiaries will have to sign a commitment once they have been allocate, by means of a legal act, the European funds (Annex IV.C of the Order).

[Attached, as Annex I, is a proposal for a Declaration to be approved by the governing body of the ICN2; and, as Annex II, the proposal for a DACI to be signed by the workers specially designated for the management of European funds through the receipt of subsidies, public procurement or any other process that may be determined subsequently – Annex IV.A of the Order].

b) Policy and Plan for the Prevention of Corruption, Fraud and Conflicts of Interest

The objective of this Policy is to define the application of controls on these types of risks in the ICN2 as well as in relation to the PRTR. This Policy contains the behaviours to be avoided and the key elements, both human, organisational and documentary, that the ICN2 must apply to prevent acts of corruption, fraud or conflicts of interest from occurring in any area of its organisation.

The ICN2: As it is a new measure established in the Order, it is prepared but pending approval. It is recommended that it be approved by the ICN2 as soon as possible or, in any case, once European funds have been granted to it by legal act. This Policy will also be complemented by those already approved by the ICN2 in terms of travel and gifts.

[Attached as Annex III is a proposal for a "Policy and Plan for the Prevention of Corruption, Fraud and Conflicts of Interest" to be approved by the competent body of the ICN2].

c) Protocol for detecting and monitoring suspected cases of fraud

The objective of this Procedure is to define the actions to be carried out by the ICN2 in order to detect and carry out the follow-up of suspected cases of fraud as provided for in art.

6.5.g) of the Order. It also aims to detect and follow up suspicious cases when there is at least a well-founded suspicion of a situation of fraud related to the management of EU funds by a natural or legal person, including contractors or subcontractors of EU funds.

The ICN2: As it is a new measure established in the Order, it will be prepared and approved by the Control Committee of the WFP of the ICN2.

d) Procedure for the recovery of fraudulently spent PRTR funds and for the prevention of double financing

The purpose of this Procedure is to establish the steps that must be followed by the ICN2 in those cases in which a procedure for the investigation and follow-up of suspected cases gives a positive result. That is, in those scenarios in which it is confirmed, in a reliable and documented manner, that a beneficiary of European funds has fraudulently spent the amounts received.

However, it is intended to guarantee the absence of double funding in relation to the PRTR. It defines the measures to prevent and/or detect in projects financed with the PRTR if they were already previously subsidised through other mechanisms or, where appropriate, ensuring compliance with the requirements on compatibility with the State aid scheme and prevention of double financing.

The ICN2: As it is a new measure established in the Order, it will be prepared and approved by the Control Committee of the WFP of the ICN2.

e) Procedure for the prevention and correction of situations of conflict of interest (conflict of interest management)

The objective of this Procedure is to establish guidelines for managing conflicts of interest in the ICN2 that may arise in relation to its procedures and normal activity as well as with the Recovery, Transformation and Resilience Plan (hereinafter, the PRTR). Its objective is to communicate, detect and manage conflicts of interest, defining and regulating the applicable procedure for resolving such conflicts, in order to collide directly or indirectly with the goals and objectives of the ICN2 or the PRTR, its staff and/or any third party, seeking to ensure that the ICN2 analyses and prevents possible situations of conflict of interest. It is also a procedure that will allow the ICN2 to develop controls that eliminate or mitigate the main risks in relation to conflict of interest.

The ICN2: As it is a new measure established in the Order, it will be prepared and approved by the Control Committee of the WFP of the ICN2.

6.2 Recommended based on the contents of the management systems:

a) Communication channel

The aim is to involve all members of the ICN2 as well as third parties in prevention of the commission of crimes or infringement of the rules applicable to the structure of the ICN2.

Specifically, in the WFP, what will be sought through the use of this channel is to provide fraud whistleblowers with a secure means to carry out their communications.

In this way, the ICN2 will be able to prevent or detect these possible breaches and react to them.

These communication channels can be, in application to the WFP, to communicate situations of fraud in scenarios that have an impact on EU public funds. In the latter case we can find:

- The **Complaints Channel of the Generalitat de Catalunya** available at the following link: <https://administraciopublica.gencat.cat/ca/organitzacio/etica-publica/bustia-etica/>. It is worth mentioning that the PMA of the Generalitat de Catalunya of February 2022 contemplates the creation of an Ethics Mailbox intended only for complaints related to the management of European funds. It is recommended to follow up with the Consortium of the Open Administration of Catalonia to confirm the implementation of the channel.
- L'**Anti-Fraud Office of Catalonia** who also makes available to citizens a whistleblowing channel available through the following link: <https://www.antifrau.cat/es/investigacion/denuncia.html>
 - o Good <https://www.antifrau.cat/es/comunicaciones-anonimas>. Complaints about fraud, corruption and/or conflicts of interest, among other complaints, can be addressed there.
- The **National Anti-Fraud Coordination Service** which makes available to citizens a complaints channel available through the following link: <https://www.igae.pap.hacienda.gob.es/sitios/igae/es-ES/Paginas/denan.aspx> It can be used to report facts that may constitute fraud or irregularity in relation to projects or operations financed from funds from the European Union. Its regulation is set out in Communication 1/2017, of 6 April, on the way in which persons who have knowledge of facts that may constitute fraud or irregularity in relation to projects or operations financed in whole or in part from funds from the European Union available can proceed a: <https://www.igae.pap.hacienda.gob.es/sitios/igae/es-ES/snca/Documents/ComunicacionSNCA06-04-2017Canaldenuncias.pdf>
- The **European Anti-Fraud Office (OLAF)** also provides citizens with a whistleblowing channel available through the following link: https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_es It can be used to report (i) Fraud or other serious irregularities with possible negative repercussions for EU public funds (revenue, expenditure or assets of the EU institutions) and (ii) Serious misconduct by members or staff of EU institutions and bodies.

It is advisable to keep track of other possible tools that are created

from the different administrations in order to help in the management of the Canals

of Communication. For example, the Government of Catalonia has also created the consultation channel of the Advisory Committee on Public Ethics, where queries on the matter can be directed in the event of not having an entity similar to the ICN2.

The ICN2: It is recommended that training be carried out on the use of these channels of communication,

[All this without prejudice to the implementation planned by the ICN2 in relation to the whistleblowing channel established by the European Directive 2019/1937 on the protection of whistleblowers and the law that is finally approved by the State in application of the bill published in October 2022].

b) Training and awareness

Training and awareness raising about the WFP and its elements is presented as one of the most important control tools, since only when all the members of the ICN2 are properly trained and sensitized to this WFP, it will be able to unfold all its effects.

The ICN2: The Head of the WFP must include among his functions the training of the members of the ICN2 on a regular basis.

It is also recommended that ICN2 members be continuously informed and trained on all aspects of this WFP and other compliance tools. That is, its CERCA Code of Conduct, Compliance Policies, specific decision-making protocols and other elements.

The ICN2 will have to define the ideal time to carry out this training depending on whether (i) the employee is a new recruit; (ii) You have already been in the ICN2 for years (making reminders) or (iii) There has been a change in the employee's functions or in the regulations that may affect them or in the processes.

This training must be dynamic, continuous and adapted to any structural, organisational or regulatory change that may occur at the ICN2 and deal with, at least, the following aspects:

- The concept of LDC and its elements
- The concept of Regulatory Compliance (including *Criminal Compliance* and Compliance in the Public Sector)
- Risks, risk of fraud, criminal risk and associated damages for both staff and ICN2
- How can the recipients of the training help prevent the risk;

- How and to whom they should report and how they can report breaches.

Any method of sensitization of the members of the ICN2 may also be adopted so that this control tool is completed (e.g. messages on the website, informative emails, group dynamics, etc.).

In short, it is a question of teaching the members of the ICN2 the correct way to act in their activity, as well as that they understand the importance of this WFP for the smooth running of the ICN2 in the management of European funds and all its processes. They must feel part of it.

The training can be carried out through face-to-face sessions or e-learning and the members who receive it must be periodically evaluated in order to contrast their knowledge of the rules and the PMA (e.g. Conducting multiple-choice tests).

Likewise, it can be initial training (Ex. Through the Reception Manual) as well as specialized (according to the functions of each member of the ICN2).

From this perspective, the ICN2 will also have to ensure the following aspects:

- Delivery of the Code of Conduct or CERCA Code, of all the policies and regulations that make up this PMA and other compliance tools (or access to them) to the new members of the ICN2 as well as to the rest already incorporated (it may be considered to do so by areas affected by the PMA)
- Periodically demand a commitment to respect them, as well as a confirmation of knowledge and understanding of their content (e.g. By means of a signed receipt)
- Issuance of reminders on regulatory and ethical compliance obligations of the members of the ICN2.

All of the above must be provided for in the ICN2 Annual Training Plan and documented.

It is advisable to follow up on the training offers of the School of Public Administration of Catalonia (EAPC) insofar as it plans to articulate a specific training programme extended to managers, technicians and all the staff involved in the management of actions financed with the RRF in the Generalitat de Catalunya and affiliated bodies, which may also be useful for the ICN2.

c) Disciplinary system

Any prevention system, in order to be effective, must include a disciplinary system that adequately sanctions non-compliance with the control measures established by them.

In this case, we already advanced in point 3 of the Legal and Content Report (*Scope of application and time of this PMA*) what is the scope of this PMA and its obligation, which must be understood as part of the employment obligations of the managers and workers of the ICN2.

The disciplinary system of the ICN2 is expressly contemplated in Royal Legislative Decree 5/2015, of 30 October, which approves the revised text of the Law on the Basic Statute of the Public Employee (for very specific cases and always supervised by the corresponding intervention) and the rest of the applicable labour legislation such as the collective agreements signed by the ICN2 in 2015 or the Workers' Statute, as well as Law 19/2014, of 29 December, on transparency, access to public information and good governance (Chapter II Sanctioning Regime).

Regardless of the legal actions that the affected subject and/or the ICN2 may exercise for the contravention of the rules of the PMA or other regulatory compliance, the ICN2 may impose, through the person or body delegated for this purpose, the sanctions that are provided for in the disciplinary regimes indicated and the rest of the applicable labor legislation if applicable (e.g. By means of open disobedience to the orders or instructions from a superior, unless they constitute a manifest infringement of the legal system).

It will also be necessary to establish sanctioning measures for ICN2 members of a political nature that may compromise the management of the PRTR through regulatory breaches or acts of fraud, corruption or conflict of interest. Such as, for example, dismissal from office.

Likewise, the consequences for breaches that may be committed by third parties linked to the ICN2, such as professionals who provide services to it or contractors, must also be considered. Such as, for example, through the contract specifications, the contracts themselves, where clauses are introduced contemplating these cases.

As we also indicated, it will be necessary, in this regard, to inform all members of the ICN2 about (i) This sanctioning system and (ii) their obligation to respect and comply with the Code of Conduct, the WFP and other compliance protocols and measures that may be implemented in the development of the PRTR or the ICN2 integrity and compliance system (by signing an acceptance document).

APPENDICES:

Annex I – Proposal for an institutional declaration of the ICN2 on the fight against fraud, the Corruption and conflicts of interest

Annex II – Declaration of Absence of Conflict of Interest (DACI)

Annex III – Policy and Plan for the Prevention of Corruption, Fraud and Conflicts of Interest

Annex IV – Protocol for the detection and follow-up of suspected cases of fraud (Pending; to be prepared and approved by the Control Committee of the ICN2 WFP.)

Annex V – Procedure for the recovery of fraudulently spent PRTR funds and for the prevention of double financing (Pending; to be prepared and approved by the ICN2 WFP Control Committee.)

Annex VI - Conflict of interest management procedure. (Pending; to be prepared and approved by the ICN2 WFP Control Committee.)