Fraud-proofing: legislation and contract management

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The purpose of this Communication is to set out achievements of the “fraud proofing legislation and contract management” procedure. It covers the period 2001-2006. Although this process is being replaced by a new fraud prevention method, based on OLAF’s investigative activities, the procedure being discussed in this report will remain available for two specific reasons. These are, firstly, to allow for the assessment of fraud risks in legislative proposals, and, secondly, to allow for the drafting of standard procurement contracts and grant agreements.

Fraud proofing achievements:

Since the adoption of the procedure in 2001, OLAF has short listed the most vulnerable legislative proposal (approximately 15-20 legislative acts per year). OLAF was closely consulted during the revision of the Financial Regulations governing the execution of the EU’s budget, which acts as the cornerstone of the Community’s financial rules. Standard clauses to protect the EU’s financial interests were included in basic acts when the current financial perspectives (2007-2013) were adopted. The legal bases for European operational policies offer improved preventative protection by:

- ensuring the adoption of preventative measures and effective controls. When irregularities are detected, for example, there is due provision for recovering unduly paid funds and applying effective, proportionate and dissuasive penalties;
- ensuring, on the one hand, that the Commission and the European Court of Auditors are entitled to perform audits of the projects and that OLAF, on the other hand, is entitled to conduct investigations in accordance with the applicable legislative framework.
- clarifying the notion of irregularity with regard to the Community’s expenditure under centralised or shared government.

Procurement contracts and grant agreements:

The Directorate General for the Budget operates a standard contracts policy – for both public and grant procedures. In 2003 and 2004 the Commission adopted contract models for:

- **Procurement:** direct service contract, framework service contract, direct supply contract, framework supply contract, order form, purchase order for low-value contacts and general terms and conditions for low-value contracts.
- **Grants:** grant agreement for an action, operating grant agreement, framework partnership agreements, specific grant agreement of an action and specific operating grant agreements.

The Commission has created a database in the framework of the Early Warning System, which contains warnings concerning entities in exclusion situations and entities presenting potential financial risks. In addition, the Commission has adopted new rules based upon the International Public Sector Accounting Standards (IPSAS) and the International Financial Reporting Standards (IFRS) in 2005. The main objective of these rules is to increase financial transparency and accountability towards users, audit and control bodies. They also seek to offer greater completeness and accuracy of the balance sheet by offering a precise overview on assets and liabilities.

Conclusion:

The report finds that the objectives set out in the fraud proofing procedure have been met, with the most relevant and sensitive legislative acts having been subject to this procedure. A set of model contracts and agreements have been adopted and the fraud-proofing process has contributed considerably towards preventing fraud, corruption, irregularities and other illegal activities in legislation as well as in contracts.