Fraud-proofing: legislation and contract management

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PURPOSE: to strengthen basic EU legal instruments against fraud or other illegal activity. CONTENT: the purpose of this Communication is to establish rules for the prevention of fraud in the EU. It is based on the findings in the "White Paper on internal administrative reform of the Commission". The main thrust of the Communication is to enshrine the principle of prevention to protect the Community's financial interest. Under the current system fraud is primarily the responsibility of each Commission department with OLAF offering its expertise as and when deemed necessary. The new proposals aim to offer a system of cooperation which targets draft legislation most prone to fraud right from the outset. At the same time DG Budget will make prevention a greater priority in terms of contract management together with OLAF. Currently, officials preparing legislation with potential financial implications, are expected to prepare a "financial statement" and an anti-fraud section the purpose of which is to outline specific anti-fraud provisions foreseen in the proposed text. OLAF, although consulted on sensitive issues, is not always in a position to react at the right time in the course of consultations. Frequently, their suggestions are seen as slowing down the decision-making process. Thus, their use in inter-service consultations has not always been viewed satisfactorily. In line with the conclusions of the White Paper on administrative reform the proposal seeks to increase the overall Commission's knowledge of prevention matters whilst at the same time making it possible for departments to act pro-actively to potential cases of fraud. OLAF will actively assist DG Budget in examining contract management systems. The overall strategic approach will focus on two fronts - legislation and contacts. The proposed prevention mechanism (fraud-proofing) will be limited to the most sensitive items of legislation with an emphasis on avoiding overburdening the inter-service consultations. In terms of legislation, a specific "co-operation" procedure is being proposed which provides for consultation with OLAF further upstream of the inter-service consultation.The co-operation process would proceed in the following manner: - Phase one: The definition of criteria to help with preliminary identification of high-risk areas. - Phase two: The identification of high-risk sectors of Community legislation. - Phase three: The identification of legislative drafts covering high-risk sectors that need a fraud-proofing option. - Phase four: Upstream consultation of OLAF. These phases would be followed up by inter-service consultation. In terms of contracts, the Communication proposes the provision of a central database of contracts and contractors as well as the establishment of standard contracts. Lastly, in addition to the aforementioned procedures and mechanisms the Communication proposes additional tools in the effort to promote a climate of prevention. This would include measures such as awareness and training campaigns, the drafting of guidelines and the preparation of a manual during the first half of 2002 by OLAF to be circulated to all associated departments.