Basic information

2002/2066(COS) COS - Procedure on a strategy paper (historic)	Procedure completed
Fraud-proofing: legislation and contract management **Subject** 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	BÖSCH Herbert (PSE)	11/04/2002

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	The committee decided not to give an opinion.	14/05/2002
JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	

Council of the European Union

European Commission

Commission DG	Commissioner
European Anti-Fraud Office (OLAF)	

Key events

Date	Event	Reference	Summary
07/11/2001	Non-legislative basic document published	SEC(2001)2029	Summary
11/04/2002	Committee referral announced in Parliament		
10/09/2002	Vote in committee		Summary
10/09/2002	Committee report tabled for plenary	A5-0283/2002	

09/10/2002	Debate in Parliament		
10/10/2002	Decision by Parliament	T5-0468/2002	Summary
10/10/2002	End of procedure in Parliament		
20/11/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2002/2066(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 148
Stage reached in procedure	Procedure completed
Committee dossier	CONT/5/16372

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A5-0283/2002	10/09/2002	
Text adopted by Parliament, single reading		T5-0468/2002 OJ C 279 20.11.2003, p. 0022-0134 E	10/10/2002	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	SEC(2001)2029	07/11/2001	Summary
Follow-up document	SEC(2007)1676	17/12/2007	Summary

Fraud-proofing: legislation and contract management

2002/2066(COS) - 17/12/2007 - Follow-up document

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.

Fraud-proofing: legislation and contract management

2002/2066(COS) - 10/10/2002 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the report by Herbert BOSCH. (Please refer to the document dated 10/09/02.) Parliament insisted that existing EU legislation should be used to minimise fraud and irregularities; this is not always the case. The Commission is reminded of Council Directive 92/50/EEC on the award of public service contracts, which may be used to exclude a service provider from participation in a contract if the service provider supplies false information or is guilty of tax fraud. Parliament regretted that Eurostat has not used this directive to exclude certain service providers. Finally, an ex-ante assessment of all contracts and budget authorisations is essential if a high level of fraud proofing is to be achieved. It must be made by officials who are different from those responsible for initiating the operation and who are not subordinated to them.

Fraud-proofing: legislation and contract management

2002/2066(COS) - 07/11/2001 - Non-legislative basic document

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.