

Attachment 2

**Guido Strack**  
**Unterste Blum 18**  
**54332 Wasserliesch**  
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Guido Strack Unterste Blum 18 54332 Wasserliesch

Wasserliesch, 24.02.03

Mr. Paul Ghislain  
European Anti-Fraud Office (OLAF)  
European Commission

B- 1049 Brussel - Belgium

**Re: OPOCE – OF/2002/0356**

Dear Mr. Ghislain,

Please find attached one signed version of the Record of Interview of the Interview of 13.11.2002.

As the quality of the text wasn't too good I scanned and ocred it, to be able to make a complete revision. I thereby tried to limit changes to the absolut minimum for making the text understandable. Even though the tapes have not been available to me, I think the revised text now presents an accurate record of the content of our Interview.

I hereby formally request that the documents produced by me should be annexed to the interview record (see III.e)).

Should you have any further questions, please do not hesitate to contact me.

Yours sincerely,

  
Guido Strack



EUROPEAN COMMISSION  
EUROPEAN ANTI-FRAUD OFFICE (OLAF)  
INVESTIGATIONS & OPERATIONS  
**Legal Adviser: Internal Investigations**

Brussels,  
PG/ke D(2003-AC-894)

000851 24.01.2003

Mr Guido Strack  
Unterste Blum 18  
D- 54332 Wasserliesch  
Germany

Dear Mr Strack,

**Re: OPOCE - OF/2002/0356**

Please find enclosed in duplicate the record of your interview of 13<sup>th</sup> November 2002.

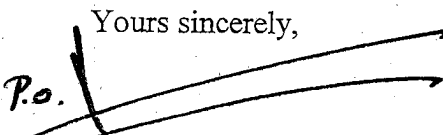
If you agree with the content of the tape transcription would you please send us back one copy with your signature. If not, you can also make amendments and send back the copy to us for correction.

We apologise for our delay.

Thank you for your understanding.

Yours sincerely,

P.O.

  
Paul Lachal ROBERTS

Contact:

Paul Ghislain, tel +32-2-298 48 77

Encls.



The EUROPEAN COMMISSION  
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

Magistrates, Judicial advice and follow up

Model 2

CONFIDENTIAL

## RECORD OF INTERVIEW

### Case Identification

Legal basis	Art. 4. § 2.2 <sup>nd</sup> sub-paragraph – Reg. 1073/99 and 1074/99
CMS No.	OF/2002/0356
CMS short name	OPOCE

Taken on 13<sup>th</sup> November 2002, 16:00h, at J 30 7/42 by Paul Ghislain, investigator (OLAF), and Declan Murphy, magistrate (OLAF).

### I. Particulars of person interviewed

Name and First name: Mr Guido STRACK (né Rünz)  
Date and place of birth: Koblenz-Moselweiß - 07.11.1964  
Address: Unterste Blum 18, D- 54332 Wasserliesch, Germany  
Tel.: +49 6501 600207 Portable: .....

### II. Is also present at the interview:

Mrs Karin EVRARD (OLAF) in her capacity of secretary/typist.

### III. Mr Strack states:

I have been informed of the reasons for this interview.

I have been informed that:

- a) I have the right to express myself in my chosen language which is English.
- b) I have been called to this interview in accordance with Article 4, paragraph 2, second sub-section of the Regulations 1073/99 and 1074/99. I am aware that I have the duty to co-operate with OLAF in accordance with the rules laid down in the instruments based on Article 4, paragraph 6, sub-paragraph a) of the Regulations 1073/99 and 1074/99;
- c) This interview will be recorded on tape, and an official record of the interview may be drawn up;
- d) My statement together with the official record of this interview may be used as evidence in any administrative, disciplinary or penal procedures;
- e) I have been advised that I may request that the documents produced by me should be annexed to the interview record.

### IV. Content of Interview

The interview concerns the allegations that Mr Strack sent by e-mail to Mr Bruener, Director General of OLAF on 30<sup>th</sup> July 2002. Your interview will be recorded, on the computer and on a tape.

Question: What are your functions? Can you please give us some precisions, and also tell us what your previous functions in OPOCE were.

#### *Answer*

*I have been working since 1 April 2002 in DG Enterprise, in Directorate C, which is the (...) Directorate, in Luxembourg, in Unit C4, which is dealing with Communication and Events. And I am especially dealing with CORDIS, which is the Information system for FP6 and other community research initiatives. And I am especially dealing with the external monitoring of CORDIS. And I'll be prepared for (...) a Call for tender for Cordis. I am project officer for this monitoring contract with the company (...).*

*Before that, I was working at OPOCE, a publications office. I started there on 1 September 1995. I was working in CELEX, and already there I got into the consolidation business, so when I was employed my task description was in a way to get consolidated texts into CELEX, which was the community legal database system. At this time it was the only one because EUR-LEX did not yet exist. The idea was to get consolidated texts into that. From there I slipped more or less into consolidation itself. Consolidation, being the creation of documents, which have no legal value as such, but which represent the law at any given moment. So what we do actually is you have the Official Journal, which is the only legally valid source for the EU law. In the Official Journal you have? , because of a publication mistake, which could arise in any language, or any combination*

*of languages. And more important, we have Amending Acts. These amending acts do not repeat the whole text; they just concentrate on the ? which are amended. It could be, in the worst case, something like, e.g., in Art. 4, paragraph 1, second indent, the 'and' is replaced by 'or', and nobody knows what it is about. So what we did is try and put the pieces of the puzzle together into one text which you can read and where you have the text as it is at any given moment. So this is consolidation at the very first level. This consolidation section was in the same unit. As I was supposed to help to get the consolidated text into CELEX, I also had to deal with aspects up, what quality, what files (...). Since April 99, if I recall correctly, I was responsible for the section for consolidation in the Unit Official Journal of the Publication office. So the names of the Unit changed several times, but essentially it was that. It was a special section dealing with consolidation. I did this until I got my new job.*

Question: Do you confirm the content of the e-mail sent by yourself on 30<sup>th</sup> July 2002 to Mr Bruener, Director General of OLAF?

Answer

*Yes, it was written 3 months after I had left the publications office. I tried to recall some of the events in there even earlier. It was from my perspective as I saw things at that very moment.*

Question: Could you briefly describe what you find wrong in the situation, make a brief summary?

Answer

*I think the basic problem was that we had a call for tender, a public procurement procedure, which was won by a company which did not do the task before. It was a consortium of European economic interest groups in which there was one partner which was already involved in a lot of things at the publications office. The contractor who did the consolidation before – and we had a different way of doing it – was another company, a bidder as well, but who did not win, or did not win in the first place. So it was a framework contract which we concluded with two companies, which was first ADL, this new one, and the other one in second place, Euroscript, because of much higher prices.*

*I think the basic problem was that they underestimated the task; they made prices which they were not able to keep afterwards, so they were not able to earn money with it and even lost money with the prices which they offered ADL. The other thing was that they had huge technical problems, especially in the volume which they promised or had contractually engaged themselves into. The idea was that, when setting up the contract – and somehow I was involved in that as well, making the call for tender – we saw that we were going to have a huge amount of pages to produce. It was 10,000 pages a week, which meant in consolidation terms some 13,000 pages a week. We said in the call for tender that the bidder needs to engage at least for one third of it. That's why we made a framework contract. So we thought that we would have several contractors with nobody doing the full load, which would have helped us as well to have a reserve, and things like that, in case something went wrong.*

We asked the contractors in the call for tender to make a declaration of which percentage of the work load they wanted to get, they were bidding for. And ADL bid for 100%, while the second one, Euroscript, as far as I recall, but I might be wrong, bid for only the third, so the minimum, with a phrase saying "we would be able in the duration of the contract to get to a higher amount." So they said we can do everything. They couldn't, and we can do everything at very low prices. So we did not have much of a choice because of course having (...) they had technical knowledge about dealing with (...) which is quite complex and very specialised, especially if you are doing it in parallel in 11 languages. We did not expect to get an awful lot of bids. We had four, I think. One was completely out of range, because they did not understand anything about it. And the third one was from a printer we had contracts with already in the office. But they weren't able to, even after asking them again, to provide one of the prices which was asked for in the price schedule, which was the maximal total price. So we had to go back before the contract with Euroscript, the old (...) contract, which ran differently, wasn't our base contract. So they were paid by IOWA (?), which had the problem that whenever they made a mistake, we asked them to redo it, and they did it on their times, and we could not control how much time they really needed to do a thing. So what we wanted to do and what we achieved to do is to get to a unit-based contract. But the problem of this was that we did not have any experience with it, because, as I said, before it was done more or less on a hand-gr(...) basis, and now we wanted to shift to an industrial basis, which you can see from the volume that you do not do 13,000 pages a week (...). Therefore we had a lot of problems of classifying what would be the right unit indicator and we had chosen quite a complex system of a very (...) in the main area of consolidation, 24 different units with supplements. If you look into the contract you will find the details. And to avoid the situation where we end up in a situation where all this amounts to something which we did not want to have and where we lose (...) and where we can't plan it anymore, we had two maximum prices which were both calculated on a very simple per day page-basis. While the other parts of the Unit-based (model) were very complex. (...) There is a difference if you have to integrate a modification into a text, you could look at the final text and simply count how many pages (...), and that's what they do now with the covenant. At that time we thought that wouldn't be a good idea, and we did not opt for that. Because if you have, you can have a modifier where you have a basic 100 pages in each language, and you have one word to be changed. On the other hand, you might have a basic (...) with just 10 pages, but you have 150 or even more modifications. All this is possible, all this exists. So we tried to find a very ambitious system to get the right balance, work load to invoice. And this third company - that's why I made this parenthesis - did not give the maximal price so we needed to exclude them, and that was agreed by the CCAM as well that they needed to be excluded because they did not bid for the call for tender as it was set up. So two were left. And with these two the contract was concluded. As a framework contract, meaning that we were obliged to use the first one. So phase 1: contract conclusion.

Phase 2 : Setting-up of the production. Along the contract, they had a phase of 3 months to set up the production. So after three months, the company was, after signature, obliged get to the percentage of production which they engaged themselves in. So in the case of ADL: 100%. As ADL was much cheaper we could not ask Euroscript for anything at the start, so we just asked ADL and they were obliged to do that. So we made a first test, and after this test, normally they should have delivered the 13,000 pages, or at least 10,000 a week (depending if they were OJ or PDF pages), and they did not. I can't recall. So we are talking about the period now: end of the year 2000. The contract was signed, if I recall correctly on 15 June 2000, which meant that the 3-month period would have ended.

on 15<sup>th</sup> September, and already there we had some delays, which were as well our problem because we did not get around with preparing staff on our sides. After this, even then, they never managed to get to this level.

So they could not perform?

They could not perform from a volume point of view, and they did not perform from a quality point of view either. They did not perform from an individual engagement point of view, in the sense that you have one "family" (a family means you have the basic act as it was published, the initial document + its modification, or corrigendum), and for each family we set up a very complex procedure (and our contractor unit was very much involved in that). We would have liked to have a much simpler one, but the contract people said "now you have to have a very complex procedure for 'bons de commande'. We need a 'bon de commande' in the sense of financial engagement". So we made 'bons de commande' for a whole package of families, and there we just had the numbers of the families, so the CELEX number of the basic of act serving as an identifier for families. They weren't 'bons de commande' in the full sense, because it did not mean that we needed to order those, but it set up a frame in a sense. And this frame was materialized by a so-called ad hoc dossier which then, for this very family, said 'Please produce it until ... and this will involve these acts, these modifications which you have to integrate. We ask you as well to check it, if these are all. But from our perspective we see that these are the ones to be integrated, and we estimate this to come up with a number of X pages. Even the volume description in "concretizing" exactly what they should do on the dossier, and as well in the idea fixing a deadline when it has to be delivered.

So we have three engagements normally. You have the engagement on the global volumes, which need to be achieved; we have the quality engagement of course, and this concrete engagement for each given family to be delivered at this given fixed deadline provided we do not go over the global volume which they have to deliver. None of the three was met.

Now we are talking about the whole period, at least until April 2001. We had the first test, I think, in October/November somehow, and from there we said OK, but you need to get up, and they said as well. They even provided plans when they will reach all these 13,000 pages, and they never did. The work was organised in a way that my section was dealing with all the things. Compared to ADL we had at this time not yet formally, but from the work load organisation, however, two tasks to do ourselves: one was to prepare the dossier, especially this ad hoc dossier, and to get all the electronic files as far as they were available to us, which means all this consolidation takes place on an electronic level: not Word files, but stml files. Are you familiar with that? Do you know html? You need to have an electronic file in a very specific format. If you know html, that's the thing which is behind the Internet, and there you have so-called tags which give you information about how something should be presented in html. (Here come a few technical explanations). Stml looks to be the same. From the philosophy, it's different because it is not presentation of something, it's structured. What we have as tags is something like titles, end of titles, subtitles, end of subtitles, footnotes, articles, article headers, lists, list elements, things like that, millions, tons of stuff. There is a very precise set of rules, called DGD, which defines how this has to be tagged.

So what we said to ADL would be that - and that's in the contract as well - the basic end product they had to deliver for each consolidated document was an stml file, to be in fact 11 (because we did it in 11 languages). And this stml file has to follow a DGD called

act and we had one other, which was a very special issue as well to treat special cases. But that we could leave aside for the moment. And this DGD is part of a larger framework which is called "formex", which stands for something which I do not know, something like interchange format. And this is the format used by the publications office with its contractors, so with the normal GO printers. They as well deliver nowadays files in electronic format, called formex 33, version 3. And this then is used to display it in EUR-LEX for example, in telex for example, and to derive other things from it, to put it into data bases so you can search it. And the problem is that this is quite a new thing which went into force on 1<sup>st</sup> April 1999, if I recall correctly. Before we had a formex 32, which was just 10% of the richness of formex 33. Sometimes you have electronic files, sometimes you have electronic files where you have all letters in capitals or in special letters, and sometimes you do not have anything at all.

So before you do the consolidation, you need to have those support source files for each of the acts (the basic act, for the corrigenda, and for each of the amendments). You have to have them in formex 3, so to have a common level of format, because what you do then afterwards is very simple: you take a part from there and you put it into the other, and it only fits into the other because it's the same format.

They did not fulfil the targets, and we had one part of the sector preparing it and getting the source file, or asking ADL to prepare the source file; and we had another part of the unit controlling what was coming back. Controlling means pure technical control, on the one hand, which is (disparsing?), and then some sample spot checks. So we did not have the manpower to control 13,000 pages intensively. But there was some logic with where you put control, and especially for the modifications themselves, we controlled them, and whenever we thought they found a mistake, we sent it back to ADL. Normally in the contract some penalty rules were foreseen for that. I think there was a rule that they should pay € 1,000 per mistake, something like that. The problem is not legal texts; but normally in legal systems, if you do not already have the lawmaker publishing them, the private sector takes care of it. Then, no judge in Germany e.g. will use the Bundesgesetz.... They won't go back to the archives; what they use is a private law thing called X, and the lawyers and everybody uses this. One idea of this whole consolidation thing is that this consolidated text will play this role in European law. If you have a mistake, it could be a very serious issue. So you need to be very strict; and these rules are minor compared to the ones which we have in the publication (...), because there it's 5,000 (...). And then there is a thing per page. €1 per page + 1,000 per dossier concerned. And they were never applied. No penalties were ever applied, as far as I know.

Do you know why they were never applied? Did you receive any explanation, or did you ask for any explanation for this?

Even though I am a lawyer, I am not a very "formalistic" person. So what I did is I asked my Head of Unit what we should do. He said we should prepare a note to the Unit which was given the contract, because it was a bit unclear as to who would be responsible for that. Would it be my Head of Unit or the Head of Unit from the so-called contractual services in OPOCE. I think what we did is that I drafted a note for my Head of Unit from him to be sent to the legal department at OPOCE. At least in one or two cases, these notes really went out. As we never got any feedback on that, we did not continue with it. I know that at least in one or two cases, Mr Steinitz, my Head of Unit, sent these notes. In others, he did not. And then there were continuous negotiations and talks with the



*contractor, and sometimes we tried to settle these things otherwise, but there was no pure "formalistic" approach. What we did on a working basis, we sent these things out on a massive level. [end of side 1 cassette 1]*

*So what my people did was we sent out a lot of quality complaints, and then ADL was supposed to change those things, and re-deliver corrected files, which at the beginning they did not do at all. Then we went into a second phase because we got mounts and piles of corrections, because we simply turned everything back when there was a problem. (...) Then I went to ADL, some of my people went to ADL trying to find some compromise. When something was not really that important, we dropped it. We kept the more important cases. Most of them were then re-delivered, but not in the schedule which was fixed. There were lots of delays because of corrections. But my hierarchy knew about these quality problems. They suddenly knew about the volume and planning problems.*

How long had they known that?

*Mr Steinitz was aware of everything that happened from the very beginning. Mr Raybaut came only in later, but he was already aware at the latest from before 1 April 2001 because we had this meeting. No, it was May. I think the meeting was in May, so he was aware at least in the sense of the preparation of this meeting with ADL, and I do not know in how far he involved Mr Cranfield at this stage. As far as I remember, the contract was signed in June. In September we had some problems as well, so we came up doing the tests in October. They promised us to get up to the 13,000 pages, at least until the end of the year 2000. In April 2001, they hadn't been there at all, neither quantity or quality. Quality: there were 50% rejections (half of the things were sent back to them). As far as quantity was concerned, it was between 1/3 and 50%, so clearly under-performing. But ADL always said: OK, we stick to that 100%. They were never willing to give away 1% of their volume. With Euroscript we ran out the old production and the old contract till 8<sup>th</sup> December 2000. That was the end date of the old contract. But this time they still had a team for consolidation. Knowing at this time that ADL would not manage the full production, it would have been easy to say OK, let's give one third to Euroscript, you are in a better position, and we are in a better position to have two contractors, so we don't overload you, and we are sure that we get the volumes we want to have from two sources. OK, we pay a bit more, but at least we have it. But this was not done, and I proposed that to my boss, especially to Mr Steinitz, but there was a decision not to do that, and in a way we could not do that perhaps because ADL was not willing to sign in that. They said no. We said 100%, we engaged you 100%, and they kept the engagement. In the meantime, their project director changed.*

*And then they came up with complaints from their side starting in the spring of 2001, saying that some things had to be done like that and invoiced in that way. The problem was that we had asked them right from the beginning to come up with invoice models at least because we knew that because of this very detailed unit-based invoicing scheme and price scheme, that would become a problem. We asked them to come up with those, and they never did. What they came up with was complaints in the springtime, especially on very technical issues again, especially on the source file issue (...). Even though they did not do the things they had to, they were complaining: "Please give us more", which was a kind of absurd situation.*

*There was a big meeting on 2 May 2001, I think, where participants were from our side, Mr Steinitz, Mr Raybaut, who was relatively new in the office at this stage, and myself*

*and Mr. Brancard ?, who was with the "cellule financière" of the Unit, - and I think he was present at the meeting as well - and some ADL people. We discussed all these complaints from ADL. Before that meeting I made a big briefing file, which I think I included in my e-mail, where I described the situation (...) and tackled each of the complaints of ADL, and gave my position, which was quite a contrary position of course.*

What were the results?

*There was a compromise on all points, which wasn't supposed to become an "avenant" to the contract. So we tried to find some gentleman's agreement in the way of interpreting the contract, which wasn't even signed by both parties, and which was distributed by Mr Cranfield, so he was aware of that as well. I mean it was quite an important issue if you have such a contract.*

Question: Do you have a copy of the compromise agreed by ADL and in May 2001 ?

Answer

*I think I sent it to you. I think it is in the file. If not, call me, and I'll try to send you one. I mean that was the problem why I did not send it by paper, because I had a lot of things electronically and so it was the easiest thing for me to send it by e-mail, with attached e-mails, etc., which gives it a quite complex structure, if you want to print it out, you do not get it completely. Well, I think I have it. But I don't have it from my office name any more. I don't know if I have the compromise, but I have the paper with me here. May I have a look. This (...) paper which I made for 18/4, so this was in advance to the meeting. (...) So that was the preparing dossier from our side, and of course there was the ADL dossier, which I might not have any more, and then there was - I certainly have a copy somewhere - a compromise on each of these points. You can keep it. I have it on my e-mail.*

*They promised everything was going to be better and faster, and that we would be satisfied. This was in May. We went away, and everybody was thinking that now most problems seemed to be solved, and things would become better.*

What was the situation?

*There was some improvement as far as quality, quantity were concerned, but they never managed to get to near to the 13,000 pages. The planning meanwhile was completely "abandonné" anyway, because initially as I told you in this ad hoc file we should have been the ones, and that's what our financial department, especially Mr Slatbauer ?, who was at this time in there, asked us, that we should be the ones to fix the delays, which was not that clear in the contract. In the contract it said that we fix it, but the problem is you can't say OK I want 3,000 pages tomorrow. Anyway, there is a reasonability criterion, even if it's not spelled out, it exists. And then it's of course difficult to say what's reasonable and what is not. The funny thing was that in their offer ADL said that they would be able to tackle not more than 2 "couches" a day. A "couche" means you add one modifier, then you have an end product, and this is an end product for us. And then you take this as a basis, add just one more modifier, and you have another end product. So you have intermediate end products; and then you have the very final most important end product which is the version where all amendments up to now are included, which is*

*the up-to-date version. The reason for this is to stay in the logic, because if you have things like "and" and "or" replacing, and afterwards it returns, you don't find the "or" any more. You need to do one by one to be sure that you do it correctly. And there was also the reason that a long time ago the Court of Justice had asked to have access to (...) version, because when they are dealing with Courts cases, they can only apply the law as it is now, but in some cases, they might need to apply the law as it was three, four, five years ago. So they have made it clear that they were to have accessibility to the law in its consolidated version at any moment in time or history of the act. Now, I lost track of what I was saying. I was talking about deadlines. So a "couche" means you have one modifier included, and in their offer they said not more than 2 a day, and in reality they took 3 weeks at least for one. The problem was that they always promised us that the next week or at least two weeks later they would have a fantastic planning system, available for us as well on the Internet, which would allow to see each family, where it is, and when it would be delivered. So they completely ignored the delays we fixed, and in a way we did it fictively afterwards. We always said three weeks, which in a way is a delay in which you could do most of the families anyhow, but this was never regarded, and even then, until the last day I was at OPOCE, we never had an overview about when things would really come, because they shifted plans around and even their own plans. Sometimes they transmitted to us plannings, but they were not worth the paper they were written on. The only thing we could get them to do was that in some cases where we really had the need for something to be there at a given moment because someone else had asked for it, then we had a chance to get it. (...)*

Question: What about irregularities? Do you have knowledge of some irregularities committed?

Answer

*Yes, I think one irregularity was perhaps that no penalties were applied. If the contract says there should be penalties, and if you have one bidder calculating the cost of penalties into his bid, and the other knowing that no penalties would be applied, or factually having no penalties applied to him, that is a perversion of the (...) procedure. This is one problem, which is also the case for gentleman's agreements. But in a way that interpretation of the contract, we would have had the same thing with another contractor. For me, the real irregularities start afterwards. This compromise in May 2001 for me was in a way the last limit we could reasonably go to. We know that it is a complex thing, and that three months is a very short period for such a thing, and they have to recruit and train people, and all that. Until there I had no moral problems to live with. I was optimistic that things would improve. I was working very hard on this; I spent at least 60/70 hours a week on this, week-ends included. What happened then was that ADL did not stop complaining. So it was quiet for perhaps 2 months after the compromise, and afterwards it just re-started, not with new things, but just with the old things, telling us that they still did not make enough money and that we would need talking about it again. What happened then was that I was excluded from this, so I did not know what was going on.*

Why? Were you given any reason for this?

*I know the reason. My Head of Unit once said to me that I'd better not be involved in this. And the Director General said to me it was a political issue and I was not supposed*

to get involved in that, that I was dealing with the application of the contract, and not with the political issue. I knew for the first time I was involved in a sense that I was invited somewhere in the summer 2001 to a pre-meeting where the (...), Mr Raybaut, Mr Steinitz, Mr Bageler ?, who was dealing with the technical aspects, were there. So we had these complaints from ADL coming up again, and then we scheduled this other meeting. It was a preparation for a meeting from Mr Cranfield with some very high-level guys (A from ADL, and B from Getronics, which are behind Infotechnique?, which is behind ADL.

Question: Was it the first time Mr Cranfield participated in the negotiations with ADL?

Answer

As far as I know, yes, in the sense of direct participation. No, you can't say that because even in this May thing he was addressee of letters from ADL, as far as I recall, and he was the one sending the compromise out to ADL afterwards. I don't recall who signed it. It was definitely one of the two, either Mr Cranfield or Mr Raybaut. I think Mr Raybaut signed it, and Mr Cranfield dispatched it to ADL with a cover letter. Mr Willway (?) who is the Chairman of Infotechnique (?), had regular contacts with him. So they might have discussed that on any other occasion. I do not know. But as far as official meetings are concerned, this other one that took place in the summer somewhere was the first official meeting between them, and I think it was the first one where this Getronics guy was, whose name I do not recall. I asked for some minutes at least of that meeting, but was told there were no minutes. Mr Nato ?, who is deputy Head of Unit of Mr Steinitz, did not know anything about the whole problematic going on. By chance, they got something where at least the main ideas of that meeting had been recorded, which for me, is the minutes, and which I asked Mr Cranfield and confronted him with, and told me "no, no, these are no minutes". After that, I no longer heard anything about it. I once heard something about a meeting between Mr Raybaut and ADL one afternoon about consolidation. During the meeting with ADL they told me OK this afternoon we're going to see Raybaut, and I did not know anything about it. At some stage, I think, I got a mail from Nato as well that Raybaut was asking to be briefed on the latest consolidation. He did not contact me, and Nato ? got it, because Steinitz was away apparently, then I got it, and then I made a reply to Raybaut which was dated from October. I think I have it here as well. There I explained the situation, and they should have (...) concrete figures about the volume delivered and rejection quotas, and there was still a lot. The next thing I saw or heard about was that there would be an "avenant" to the contract and that we were supposed to ask to make new "bons de commande" for source files to ADL. In the first place, for families which were going to be consolidated. The idea of the ad hoc dossier was to say OK, it's family (...). For a larger family we ask for everything related to that family, the source file and the production of the consolidation, we put all that together in a file where we estimate the volume and fix the delay. That was the initial idea. The idea behind that was to say OK, we don't want to have source files produced because we do not know if we still need them when we come to consolidating that family. The problem was for legal acts, there can be an "apogée" (?) at any time. When an act was repealed, of course, it did not need to be consolidated any more. 20 per month at least are repealed. We did not want to run into situations where we produce families which are not necessary. So we want to have the period from the decision to do it until the moment we have it to keep it as short as possible. Then there was a compromise. I think ADL sent us a letter somehow saying that they will not invoice or

reimburse source files costs. But for me, it meant extra work as well because our whole production method was situated with this per family-approach, and then we had to make massive queries and find ways to find out which source files we needed in the next half year instead of doing it on the one-by-one basis. Afterwards, in December somewhere, there was even the idea to ask even more, and then they were coming up with things which had already been consolidated in the old system. So from my perspective, this was complete nonsense to ask for the source files again for something which we had already done or to ask even consolidation of it again. There was one reason for it, in the sense of consolidation source as well as a source for codification. We did not manage to transfer some of these old acts into the new system. So there was a technical operation, a conversion procedure, and for some it did not really work. However, it would have been easier to just re-encode this consolidated text (...) Of course, you would not have had all the history, but I think it is something we could have lived with. But ADL did not stop. They wanted even more, and I think they made a compromise somehow that they should get 250,000 source files demanded, and I did not know how this whole story ended then, but that was it after I left already. And I was not willing to cooperate with that. The problem was this, that we needed to come back to the source file and consolidation production differentiation. In the call for tender we clearly distinguished these two procedure types, and ADL said they wanted to make a profit in the first part in the source file. In the call for tender we had a table where we calculated a huge amount of source files. I think it was 700,000 pages. This was wrong. The table as such was not wrong, because the problem there was that we made a table where we had the number of source file pages related to a family of a given year. E.g. if you looked at the year 52, which was the first one (...), for producing each family of the year 1952 (...) the source files which we would need, then we made an estimation, which we could already have – in that case nothing because it is too old, but for the recent ones, we could have had something already – and then we came to a number of pages of source files which we might need for that year, and then the same for the next year. Now the problem is that you have two decisions which are the two Norwegian decisions: Council Decision 1 of 1995 and 101 of 1973, if I recall correctly. No, it is decision 1 of 73 as well, but the (?) number was 101.

Could you please clarify those numbers?

The CELEX numbers are 395D0001 in the one case and 373D0101(01) in the other. These are the two decisions which undo the planned accession of Norway. So what they do is they change in 200, 500, whatever ... secondary Community Law the amendments which before had been in the accession agreement, in the accession treaty. The problem is that these are both relatively big. I think one has 100 pages and the other 200 pages. If you now calculate per family, you have a lot of families who disappear, with 100 pages multiplied by 11 because of the languages, you already have 1,000 pages per family. If you do that, and you add it up simply at the end, you simply add up the sub-total, you get a complete false picture. Even so, from a pure mathematical point, it is correct, because you need to treat that, because we were not able to say OK we will treat this source file already in family X because nowhere it was fixed in which all the source files should be treated. And that's why they were included everywhere. That's what made up the 700,000 pages. It is those two extremes. There are some others because there are lots of other modifiers which ...

(END OF TAPE 1)

*In the call for tender we had a table, which from a pure logical point of view, was correct because it was based per year, but which was able to give the wrong impression. But my decision was that in the contract it said in the (...) laws in Art. 2 or Art. 4 where it says that the Commission does not engage to ask for the full amount of work and could at any time reduce the volume of work. The whole contract in principle is that we just have the possibility to ask for (...) and we do not engage ourselves in anything in the sense of volume. ADL always said OK we want those 700,000 pages because otherwise we won't be able to (...). That's the basic idea; I don't think there was any corruption, but the problem was that there was political pressure for the office to get this consolidation done. Initially it should have been done till the end of 2003. Now they are talking about mid-2004, especially in the context of codification as well, and in some relation to the amendment of the new member States. Everybody knew that ending the contract with ADL would have the only consequence to (...) In my view if you go for it (...) would have meant that (...)*

*So the only alternative not to lose this political goal to have consolidation done was to find an arrangement with ADL. So on the one hand, I understand that, but on the other hand, I think if you do that you do not need to make calls for tender any more. Because what happens now is that we in a way become hostage of the contractor and they dictate us what we ask for, and they even dictate us an amendment to the contract. That's what happened then after all these negotiations, in which I did not take part. There was an amendment to the contract made which was leading to the fact that the former maximum price for consolidation was changed into a fixed price per page, which had some advantages as well, in the sense of reducing the amount of work load for us in the (...) procedure, because this horrible concept of several different invoicing positions (?) made this very difficult to count and to control. However, this document was already (...) because I developed on my own and against the wish of my Director, because he, in a meeting said to me we should not care too much about how to collect all these invoicing data for the control services. It's about how many units of a given unit dated, how many characters, how many modifications. So we should just rely on (...) for this. I thought it would be possible, and I proved that it is possible to calculate all these units from the electronic files which we get - it's quite a complex thing, but we can do it. That's what we did, and the application for doing this was already built up at this moment of the avenant and it was working. So our financial guy was already dealing with that all the time. Perhaps now it is a bit faster; he just needs to look for the number of pages, but he was in full control of it. The former maximum price was now changed by a fixed price per page for the consolidation; this was higher than the older one. These are figures which I do not know exactly, but I think they were changed from 4.80 for the production as a maximum price in the old days + 22 cents for the delivery of the page to 5,02. This was vis-à-vis the CCAM which was not involved. I didn't know about anything. (...) founded with the argumentation that ADL will produce less pages thanks to the so-called saving "couche" problem, and these saving couche pages would not be involved at all any more, and this would in a total lead to a reduction of I think they mentioned 14%. What happened then afterwards was the avenant was signed on 17 Dec 2001, I think. Then we had the problem that we had dossiers at different stages of the production. So we had dossiers which were completely delivered, which were accepted. There were dossiers which were in the middle of it, where some pages had been delivered, and some others not. And we had a lot where we only were half-way (...) it was sent out on the basis of the old contract, then the contract changed. The question was then "What should apply there?". There Mr Steinitz's policy was to apply the same for those. The borderline was anything that was not yet delivered would follow the new contract, which*

*in my understanding was a bit doubtful. But the major point then afterwards was that - this was for me at a stage where I was not involved in the things I had to execute (...) - even if in the avenant it said (...) they applied the avenant even for the so-called saving couche thing. All this amount of pages which had led to the theoretical reduction of 40 (?) %, which was the basis for the CCAM, I think, because I doubt how the CCAM would sign a (...) for an avenant to the contract if it costs more for us. They have no benefits for the Commission. Then it was reduced by applying even a price on this, which was not a full price, but then there was this exchange of letters between ADL, Steinitz and Monsieur ?... . You have the final note of this. The avenant was made to the contract, in my view, so that the contractor could make his benefits. We never applied penalties, even though they were in the contract. We never enforced our contractual rights as far as delivery & invoicing are concerned. We asked for things which we initially did not plan to ask for, just to give them a chance to make more return. I mean that's my view. I don't say it is like that, but that's the way I feel, and that's why I quitted.*

Question: Was there any corruption involved on behalf of Commission employees?

*Answer*

*I don't have any indication for this. The only indication I have is that I got a present from ADL in September 2000. My daughter was born.*

At this stage I don't know whether you're going to say something that might incriminate you in some act that you should not have been involved in.

*No, I can say it, I turned it back. I got a cheque of 10,000 Belgian francs (= €250) to buy myself a present for my daughter and I turned it back. I reported it to Mr Steinitz, who said I should turn it back.*

You have no proof that anyone else received any improper inducement. Do you believe that only you received that improper inducement?

*No I really think that the basic problem is that we are opposed to situations where you cannot handle. I'm not even sure, apart from the fact that I have personal problems with them, I've always been happy with the situation and how they treated me. But I think the basic problem lies in all these procedures, I mean all this public procurement where it takes one year to get a contract, and that inflexibility - you can't change anything afterwards any more in a normal way - and then you have the political pressure on the one side; the contractor which is the only one who could do the work has a certain influence. It's just the way ... where can you still go with them, and where can you find a fair compromise? And where do you give yourself completely into your hands? And there I would really like a clarification from your side. Where is the borderline?*

Yes, the border is between a serious contractual problem and irregularities involving your hierarchy.

*Yes, but if your hierarchy starts doing things what do you do?*

Is it the position that this company in fact blackmailed, the Directorate saying unless we get more profitable contracts, we're not going to continue this contract. The Directorate is

faced with severe political pressure to get the job done. To some extent, the job has to be done regardless of costs. If we cannot stop enlargement over half a million €

*it would not have stopped enlargement*

or even delaying the process ...

*There was always an argument from Mr Steinitz as well, that to compare the costs with the costs of Euroscript. He was right that ADL was still much cheaper with all these things than now. It is still much cheaper than Euroscript would have ever been. But is this something which could account?*

Is this a situation where you feel that there should be a better, a stronger enforcement of contractual rights, there should be better procurement and tendering procedures.

*The one can't go without the other. The problem is the OPOCE as well. You have very specialized power, and you have your contractors. You are not in a situation where you really go on the market and get 100 offers from people you never heard about, and you can choose the best. You have your contractors and you know that if they step out, you have a serious problem, and you don't find anybody any more. And then over the time, there is the establishment of practices in the way of what you can do and how you deal with penalties and all those things and they know. And they try to push into their direction. I think the more you go in one contract, the more you risk to be driven into the next, because they learn, and they will advise us next time. Sometimes you have to pay the price, and my problem is also that I come from a legal background, even though I said I'm not so "formalistic" myself. There is a borderline, and for me, this was over the borderline, especially if you are going to prepare dossiers like the CCAM dossier. And then you go in the other direction. They knew when preparing the CCAM dossier, they must have known, that it is not a saving, that it could never have been a saving. All this was initiated by ADL to get more money out of it. So how could you go there and say it is a saving.*

Question: What could your hierarchy have done that they did not do given the whole situation?

**Answer**

*I think the problem started in the early days of the contract. There they should have said to ADL "So you have till the end of 2000; you are there or you are not there. If you are not there we apply the penalties on the contract for each and every page until you step down, until you say 'OK we do not want to have 100% any more; we want to do a 1/3 we want to be realistic, and that's why you can't get a Euroscript into the place'. And having Euroscript into the place, there could have been alternatives. I mean I had a personal problem with that as well, not to make that written and too much in the papers because the mother of my children was working at Euroscript, so I didn't want to be officially pushing too much into that direction and give the wrong impression. She is not anymore. That would have been a good sign and a way of dealing with that. The other sign would have been in summer 2001, when ADL came for the second round, clearly giving them a stop sign. We had been at the borderline in May, we had made the arrangements. They had agreed to that. So why did we do all that. If they had just been*



*stepping in again, and we are doing as if there was nothing, and we just go on negotiating, I think these are the main two points where you should have gone into the other direction. And I proposed that. The other thing is we have had mistakes earlier on. I think they still have a completely under-equipped legal department. If they had a sound legal department, they would have had to test our contracts, question if our way of doing was reasonable, have more time to prepare the call for tender there was enormous time pressure from the beginning of this project. And of course, if you are under pressure you make mistakes, and that's perhaps why we had this table and we could have given a wrong impression.*

The function of OLAF is to investigate fraud or other irregularities, in financial terms. It does not seem, from what you are saying, that there was any fraud, and you think there probably wasn't any fraud I just want to summarise. The other area would then be irregularities have to be something with more than making bad decisions, or not making decisions that in retrospect maybe should have been made. It has to be someone doing something nearly akin to a fraud, something that you can look at and say what you did was wrong, not that you've made a bad decision. So it would then leave a situation, looking at this, that possibly what we should be looking for, or what should happen is that somebody should look into the way your Directorate deal with contractors, deal with the tendering process, without saying that a particular person is guilty of an irregularity you are liable to dismissal possibly demotion, refusal to appoint you up to a higher level, and it is a kind of disciplinary level.

*So is this the end?*

No I am just trying to talk which – we are not saying anything. I'm just trying to find out where we would go we do have a fraud. So you think that the area would be the dossier sent to CCAM and that there was no saving

*and the payment for non deliveries.*

You think these are the two most severe points? So the CCAM dossier and the payment for work that was not as reported just to make sure that they get an overall profit on the contract.

Question: When did Mr Cranfield join? He wasn't a Director General when the contract was entered into, was he ?

*Answer*

*I don't know.*

He was not there when the contract was prepared, was he?

*He wasn't there when it was prepared. And if he was there, he might have been there in mid-2000. I'm not sure.*

*There is something that I have not mentioned yet. There I do not have any proof. I heard it, but I can't prove it.*

*The former second man of OPOCE, who is now Director at the Parliament is a Luxembourger. He was claimed by ADL; he stepped back from his office at the*

*publications office for a while and during this period apparently he worked as a private consultant for ADL in the procedure for call for tender. Afterwards, he stepped back. Mr Raybaut in a way took his post which then was a director's post.*

One of the things you said at the outset is that the company had not got the experience, had not got then staff and were not competent to take on the contract.

*They did not put enough effort, they did not put enough staff in it. They underestimated the workload. I wouldn't say they were incompetent. It wasn't in one month that nothing was right. Even in one day you could say that 95% of the staff was OK. But there were some mistakes, and we did not want to get into a situation where we would let through the level of mistakes.*

Question: Is there anything you want to ask us?

Answer

*Yes. What will happen next?*

In fact, we'll review what you have said here, we'll review the file and decide what the next step is. This is the first step in the procedure. We'll go over and look at the whole. And the investigation has been opened it is an ongoing investigation and we see where we will go, or where we can go with it. Procurement contracts always have difficulties, even in private sector there are difficulties. Our competency is in relation to fraud and irregularities, OLAF's duty is to protect the financial interests of the E.C. from fraud and other irregularities and that is what we have to focus our efforts on to see is there anything – what falls within our competencies .

*Just for illustration on payment, the classical case which we have which appears quite often is the so-called Eurodisclaim. What is that all about? As you know, we now have the Euro. Before we had the ECU. There is an act which says that every reference to the ECU should be read as a reference to Euro, which in a way is an amendment, which would have meant to replace thousands of ECU statements by Euro, which would be a very costly and cumbersome effort. So we decided not to do that, but to have a little box on the so-called cover page, where you have a list of the basic act and all the amendments saying please be aware that due to this act No. X, our reference to ECU should be read as a reference to Euro. So the question was how should that be priced. In the old days, we used some of the unit and there was some negotiation with ADL to do that. So in the end we came up paying some € 50 or something. What happened now due to this new contractual thing is that they said this is a new deliverable. So we don't look at this Euroclock. We just say this is a single act, because the Euro act did not do anything else to the act, just modify this. So this is a level as any other in a way, and now they apply this 2.8 price per page for the whole act. That's fair enough, if it is just the one page. If it is 10 and you have the factor 11 in your head, or 100 pages for the basic act, then this counts. It really is money. That's where a lot of money is spent on nowadays.*

TAPE 2 SIDE 2

*Before we spent a lot of money on the effort, which was in a relation to the effort. Now it's not in relation to the effort any more, because it is just under pure amount of pages which is by chance. This is why it is a crucial point because that's where most of these saving couches come from now.*

*I have one question: Who knows about all this now? Is it just OLAF and me, or is there anybody else, especially at OPOCE who already knows?*

Not at this stage. But the reality is that as the investigation progresses, if it progresses, obviously other people will come to know about it. If your allegations are pursued, they have to be put to the other people who were involved in the contractual dealings in tendering process. So the reality is that at some stage everybody in there will know. It will be some time before people know because we will go on a step-by-step basis. Have you any difficulty with that?

*No, I imagined that when raising the problem. If my name would have been kept out by the pure fact of what it is all about and what knowledge you have. If you do not want to spread it around, and you want to just have another view on it. Jean-Marc Dehoy (?) may be someone to talk to because he is the one who followed this; he was working in my section dealing with the financial things, and we often spoke about these things. He doesn't know that I launched all this.*

Where is he now?

*As far as I know, at OPOCE.*

*How long will it take? So I will get your protocol and I will be informed whatever the decision you take.*

Eventually. I mean at this stage you are part of an investigation, you are witness. But we don't liaise with witnesses in general and tell them what we are doing. This is the first step of the investigation, so we will not inform you in a virtual delay, because the investigation is still in progress.

*As long as I do not hear anything from you, it is still in progress. Otherwise I will get a closing message from you. Is there any possible way that it could turn around against me?*

No. We can make you no promises, but under what is called the whistle-blowing decision, no adverse consequences can be taken against you. In other words, you cannot be demoted or dismissed or anything like that.

*The problem is that for the notation Mr Steinitz or Mr Cranfield will be involved, because during the time which will be notated, I was under their supervision.*

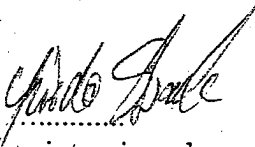
I think you refer to a Commission decision according to which there should be no negative consequences. We cannot enforce, all we can do is make you aware of the decision. Provided you go through the procedures. And under that decision as well we are obliged to tell you how long the investigation will last. You will be notified once we assessed all the evidence and we will let you know as soon as we can. We will forward you a typed version for your signature and amendment. You're entitled to amend if it does not reflect what you have said. When it is signed, you return it to us.

**V Conclusion**

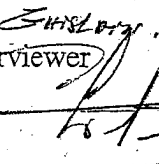
I confirm that I have read the record of this interview and I have been given the opportunity to make any comments or clarifications that I wished to.

This interview started at 16h00. and finished at 17h45, without any interruption.

Signatures:

Mr.   
Person interviewed

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Mr.   
Interviewer

Mr.  
Person present

### III. Mr Strack states:

I have been informed of the reasons for this interview.

I have been informed that;

- a) I have the right to express myself in my chosen language, which is English.
- b) I have been called to this interview in accordance with Article 4, paragraph 2, second sub-section of the Regulations 1073/99 and 1074/99. I am aware that I have the duty to co-operate with OLAF in accordance with the rules laid down in the instruments based on Article 4, paragraph 6, sub-paragraph a) of the Regulations 1073/99 and 1074/99;
- c) This interview will be recorded on tape, and an official record of the interview may be drawn up;
- d) My statement together with the official record of this interview may be used as evidence in any administrative, disciplinary or penal procedures;
- e) I have been advised that I may request that the documents produced by me should be annexed to the interview record.

### IV. Content of Interview

The interview concerns the allegations that Mr Strack sent by e-mail to Mr Bruener, Director General of OLAF on 30<sup>th</sup> July 2002. Your interview will be recorded, on the computer and on a tape.

Question: What are your functions? Can you please give us some precision's, and also tell us what your previous functions in OPOCF were.

#### *Answer*

*I have been working since 1 April 2002 in DG Enterprise, in Directorate C, which is the Innovation Directorate in Luxembourg, in Unit C4, which is dealing with Communication and Awareness. And I am especially dealing with CORDIS, which is the Information system for FP6 and other community research initiatives. And I am especially dealing with the External monitoring of CORDIS. I prepared for 2 Lots of a Call for tender for CORDIS. I am project officer for the monitoring contract with the company CARSA.*

*Before that, I was working at OPOCE, the publications office. I started there on 1 September 1995. I was working in CELEX, and already there I got into the consolidation business, so when I was employed my task description was in a way to get consolidated texts into CELEX, which was the community legal database system. At this time it was the only one, because EUR-LEX did not yet exist. The idea was to get consolidated texts into that. From there I slipped more or less into consolidation itself.*

*Consolidation, being the creation of documents, which have no legal value as such, but which represent the law at any given moment. So what we do actually, is you have the Official Journal, which is the only legally valid source for the EU law. However, in the Official Journal you can have, for example Corrigenda correcting a publication mistake, which could arise in any language, or any*

combination of languages. And more important, there are Amending Acts. These amending acts often do not repeat the whole text; they just concentrate on the parts, which are amended. It could be, in the worst case, something like, e.g., "in Art. 4, paragraph 1 second indent, the 'and' is replaced by 'or' and nobody knows what it is about. So what we did is try and put the pieces of the puzzle together into one text which you can read and where you have the text as it is at any given moment. So this is consolidation at the very first level.

The consolidation section was in the same unit. As I was supposed to help to get the consolidated text into CELEX, I also had to deal with aspects of quality, file availability and with related legal questions. Since April 92, if I recall correctly, I was responsible for the section for consolidation in the Unit "Official Journal" of the Publication office. So the names of the Unit changed several times, but essentially it was that. It was a special section dealing with consolidation. I did this until I got my new job.

Question: Do you confirm the content of the e-mail sent by yourself on 30<sup>th</sup> July 2002 to Mr Bruener, Director General of OLAF?

*Answer*

Yes, it was written 3 months after I had left the publications office. I tried to recall some of the events in there even earlier. It was from my perspective as I saw things at that very moment.

Question: Could you briefly describe what you find wrong in the situation, make a brief summary?

*Answer*

I think the basic problem was that we had a call for tender, a public procurement procedure, which was won by a company which did not do the task before. It was a consortium in the form of an European economic interest group in which there was one partner which was already involved in a lot of things at the publications office. The contractor who did the consolidation before - and we had a different way of doing it - was another company, a bidder as well, but who did not win, or did not win in the first place. So it was a framework contract, which we concluded with two companies, which was first ADL, this new one, and the other one in second place, Euroscript, because of much higher prices.

I think the basic problem was that ADL underestimated the task; they made prices, which they were not able to keep afterwards, so they were not able to earn money with it and even lost money with the prices, which they offered. The other thing was that they had huge technical problems, especially in the volume, which they promised or had contractually engaged themselves into. The idea was that, when setting up the contract - and somehow I was involved in that as well, making the call for tender - we saw that we were going to have a huge amount of pages to produce. It was 10.000 (OJ-equivalent-)pages a week, which meant in consolidation terms some 13.000 (PDF-)pages a week. We said in the call for tender that the bidder needs to engage at least for one third of it. That's why we made a framework contract. So we thought that we would have several contractors with nobody doing the full load, which would have helped us as well to have a reserve, and things like that, in case something went wrong.

*We asked the contractors in the call for tender to make a declaration of which percentage of the workload they wanted to get, they were bidding for. And ADL bid for 100%, while the second one, Euroscript; as far as I recall, but I might be wrong, bid for only the third, so the minimum, with a phrase saying, "we would be able in the duration of the contract to get to a higher amount."*

*So ADL said: "we can do everything" - they couldn't - "and we can do everything at very low prices". So we did not have much of a choice because of course having to look at the costs. They had technical knowledge about dealing with SGML which is quite complex and very specialised, especially if you are doing it in parallel in 11 languages.*

*We did not expect to get an awful lot of bids. We had four: I think one was completely out of range, because they did not understand anything about it. And the third one was from a printer, we had contracts with already in the office. But they weren't able - even after asking them again - to provide one of the prices, which was asked for in the price schedule, which was the maximal total price.*

*Anyhow with the CfT we had to go away from the previous contract with Euroscript, the old CONSLEG contract, which ran differently. There they were paid by hour, which had the problem that whenever they made a mistake, we asked them to redo it, and they did it on their times, and we could not control how much time they really needed to do a thing. So what we wanted to do, and what we achieved to do, is to get to a unit-based contract. But the problem of this was that we did not have any experience with it, because, as I said, before it was done more or less on a hand-craft production basis, and now we wanted to shift to an industrial production basis, which you can see from the volume. You cannot do 13,000 pages a week with a handcraft system! Therefore we had a lot of problems of classifying what would be the right unit indicator and we had chosen quite a complex system of very many variables in the main area of consolidation - 24 different units with supplements. If you look into the contract you will find the details. And to avoid the situation where we end up in a situation where all this amounts to something which we did not want to have and where we loose money, and where we can't plan it anymore, we had two maximum prices which were both calculated on a very simple cost-per-page-basis, while the other parts of the unit-based (model) were very complex. There is a difference if you have to integrate a modification into a text. You could look at the final text and simply count how many pages of consolidated texts come out, and that's what they do now with the avenant. At that time we thought that this would not be a good idea, and we did not opt for that. Because if you have, and you can have a modifier where you have a basic 100 pages in each language, and you have only one word to be changed. On the other hand, you might have a basic act with just 10 pages, but you have 150 or even more modifications. All this is possible, all this exists! So we tried to find a very ambitious system to get the right balance, work load to invoice*

*And this third company - that's why I made this parenthesis - did not give the maximal price so we needed to exclude them, and it was agreed by the CCAM as well, that they needed to be excluded because they did not bid for the call for tender as it was set up. So two were left. And with these two the contract was concluded. As a framework contract, meaning that we were obliged to use the first one. So that's about phase 1: contract conclusion.*

*Phase 2: Setting-up of the production. Along the contract, they had a phase of 3 months to set up the production. So after three months, the company was, after signature, obliged get to the percentage of production, which they engaged themselves in. So in the case of ADL: 100%. As ADL was much cheaper we could not ask Euroscript for anything at the start; so we just asked ADL and they were obliged to do that. So we made a first test; and after this test; normally they should have delivered the 13,000 pages, or at least 10,000 a week (depending if they were OJ or PDF-pages) and they did not. I can't recall. So we are talking about the period now: end of the year 2000. The contract was*

signed, if I recall correctly on 15 June 2000, which meant that the 3-month period would have ended on 15<sup>th</sup> of September, and already there we had some delays, which were as well our problem, because we did not get around with preparing staff on our sides. After this, even then, they never managed to get to this level.

So they could not perform?

They could not perform from a volume point of view, and they did not perform from a quality point of view either. They did not perform from an individual engagement point of view, in the sense that you have one "family" (a family means you have the basic act as it was published, the initial document + its modifications, or corrigendum), and for each family we set up a very complex procedure (and our contract-unit was very much involved in that). We would have liked to have a much simpler one, but the contract-people said: "No! You have to have a very complex procedure for, "bons de commande". We need a 'bon de commande' in the sense of an official engagement" So we made, bons de commande, for a whole package of families, and there we just had the numbers of the families, so the CELEX number of the basic of act serving as an identifier for families. They weren't, bons de commande' in the full sense, because it did not mean that we needed to order those, but it set up a frame in a sense. And this frame was materialised by a so-called 'ad hoc dossiers' which then, for this very family, said: "Please produce it until a given date, whereby this will involve these acts; these modifications which you have to integrate. We ask you as well to check it, if these are all concerned acts. But from our perspective we see that these are the ones to be integrated, and we estimate this to come up with a number of X pages." There was even a description "concretising" exactly what they should do on the dossier; and as well in the idea of fixing a deadline when it has to be delivered.

So we have three engagements normally: You have the engagement on the global volumes, which need to be achieved; we have the quality engagement of course, and this concrete engagement for each given family to be delivered at this given fixed deadline, provided we do not go over the global volume which they have to deliver. None of the three was met!

Now we are talking about the whole period, at least until April 2001. We had the first test, I think, in October/November 2000 somehow, and from there we said "OK, but you need to get up", and they said it as well. They even provided plans when they will reach all these 13,000 pages; and they never did. The work was organised in a way that my section was dealing with all the things. Compared to ADL we had at this time not yet formally but from the work load Organisation, however, two tasks to do ourselves: one was to prepare the dossier, especially this 'ad hoc dossier', and to get all the electronic files as far as they were available to us.

This means, all this consolidation takes place on an electronic level: not Word-files, but SGML-files. Are you familiar with that? Do you know HTML? You need to have an electronic file in a very specific format. If you know HTML, that's the thing, which is behind the Internet, and there you have so-called tags which give you information about how something should be presented in HTML. (Here come a few technical explanations). SGML looks to be the same. From the philosophy it's different because it is not presentation of something it's structured. What we have as tags is something like titles, end of titles, subtitles; end of subtitles, footnotes, articles, article headers, lists, list elements, things like that, millions, tons of stuff! There is a very precise set of rules; called DTD, which defines how this has to be tagged.

So what we said to ADL would be that - and that's in the contract as well - the basic end product they had to deliver for each consolidated document was an SGML-file, to be exact 11 SGML-files because



*we did it in II language. And this SGML-file has to follow a DTD called "ACT" and we had one other; which was a very special issue as well to treat special cases. But that we could leave aside for the moment.*

*And this DTD is part of a larger framework, which is called "FORMEX", which stands for something, which I do not know something like interchange format. And this is the format used by the publications office with its contractors, so with the normal JO printers. They as well deliver nowadays files in electronic format; called "FORMEX 3.3, version 3". And this then is used to display it in EUR-LEX for example, in Celex for example, and to derive other things from it; to put it into databases so you can search it. And the problem is that this is quite a new thing, which went into force on 1<sup>st</sup> April 1999, if I recall correctly. Before we had "FORMEX 3.2", which was just 10% of the richness of "FORMEX 3.3".*

*Sometimes you have electronic files, sometimes you have electronic files where you have all letters in capitals or in special letters, and sometimes you do not have anything at all. So before you do the consolidation, you need to have those support source files for each of the acts (the basic act; for the corrigenda, and for each of the amendments). You have to have them in "FORMEX 3.3", so to have a common level of format; because what you do then afterwards is very simple: you take a part from there and you put it into the other, and it only fits into the other because it's the same format.*

*They (ADL) did not fulfil the targets; and we had one part of the sector preparing it and getting the sourcefile, or asking ADL to prepare the sourcefile; and we had another part of the unit controlling what was coming back. Controlling means pure technical control on the one-hand, which is so called "parsing" checking SGML validity against its DTD, and then some sample spot checks. So we did not have the manpower to control 13,000 pages intensively. But there was some logic with where you put control, and especially for the modifications themselves. We controlled them, and whenever we thought we found a mistake, we sent it back to ADL.*

*Normally in the contract some penalty rules were foreseen for that. I think there was a rule that they should pay € 1,000 per mistake, something like that. The problem is consolidation as such are not legal text. However normally in legal systems, if you do not already have the lawmaker publishing them, the private sector takes care of it. Then, no judge in Germany e.g. will use the Bundesgesetzblatt. They won't go back to the archives; what they use is a private law collection called "Schönfelder", and the lawyers and everybody uses this. One idea of this whole consolidation thing is that this consolidated text will play this role in European law.*

*If you have a mistake, it could be a very serious issue. So you need to be very strict! These penalty rules are minor compared to the ones which we have in the OJ publications, because there it's 5,000 € per document. And then there is a thing per page. € 1 per page + 1,000 € per dossier concerned. And they were never applied! No penalties were ever applied as far as I know!*

*Do you know why they were never applied? Did you receive any explanation, or did you ask for any explanation for this?*

*Even though I am a lawyer, I am not a very "formalistic" person. So what I did is I asked my Head of Unit what we should do. He said we should prepare a note to Head of Unit of the contract-unit; because it was a bit unclear as to who would be responsible for that. Would it be my Head of Unit or the Head of Unit from the so-called contractual services in OPOCE. I think what we did is that I drafted a note for my Head of Unit from him to be sent to the legal/contract department at OPOCE. At least in one or two cases, these notes really went out. As we never got any feedback on that; we did not continue with it. I know that at least in one or two cases, Mr Steinitz, my Head of Unit; sent*

*these notes. In others, he did not. And then there were continuous negotiations and talks with the contractor; and sometimes we tried to settle these things otherwise, but there was no pure "formalistic" approach. What we did on a working basis; we sent these things out on a massive level. [end of side 1 cassette]*

*So what my people did was we sent out a lot of quality complaints, and then ADL was supposed to change those things, and re-deliver corrected files; which at the beginning they did not do at all. Then we went into a second phase because we got mounts and piles of corrections, because we simply turned everything back when there was a problem. Then I went to ADL; some of my people went to ADL trying to find some compromise. When something was not really that important, we dropped it. We kept the more important cases. Most of them were then re-delivered, but not in the schedule, which was fixed - there were lots of delays because of corrections. But my hierarchy knew about these quality problems. They certainly knew about the volume and planning problems.*

How long had they known that?

*Mr Steinitz was aware of everything that happened from the very beginning. Mr Raybaut came only in later, but he was already aware at the latest from before 1<sup>st</sup> April 2001 because we had this meeting. No, it was May! I think the meeting was in May, so he was aware at least in the sense of the preparation of this meeting with ADL, and I do not know in how far he involved Mr Cranfield at this stage.*

*As far as I remember; the contract was signed in June 2000. In September we had some problems as well, so we came up doing the tests in October. They promised us to get up to the 13,000 pages, at least until the end of the year 2000. In April 2001, they hadn't been there at all, neither quantity or quality. Quality - there were 50% rejections - all of the things were sent back to them. As far as quantity was concerned, it was between 1/3 and 50%, so clearly under-performing. But ADL always said: "OK, we stick to that 100%". They were never willing to give away 1% of their volume. With Euroscript we ran out the old production and the old contract till 8<sup>th</sup> December 2000. That was the end date of the old contract. By this time they still had a team for consolidation. Knowing at this time that ADL would not manage the full production, it would have been easy to say "OK, let's give one third to Euroscript, you are in a better position, and we are in a better position to have two contractors, so we don't overload you, and we are sure that we get the volumes we want to have from two sources. OK, we pay a bit more, but at least we have it." But this was not done, and I proposed that to my boss, especially to Mr Steinitz; but there was a decision not to do that, and in a way we could not do that perhaps because ADL was not willing to sign in that. They said no. We said 100%, we engaged you 100%, and they kept the engagement. In the meantime, their project director changed.*

*And then they came up with complaints from their side starting in the spring of 2001, saying that some things had to be done like that and invoiced in that way. The problem was that we had asked them right from the beginning to come up with invoice models at least because we knew that because of this very detailed unit-based invoicing scheme and price scheme, that would become a problem. We asked them to come up with those, and they never did. What they came up with was complaints in the springtime, especially on very technical issues again, especially on the source file issue. (...). Even though they did not do the things they had to, they were complaining: „Please give us more", which was a kind of absurd situation.*

*There was a big meeting on 2 May 2001, I think, where participants were from our side, Mr Steinitz, Mr Raybaut, who was relatively new in the office at this stage, and myself,*

and Mr Bronquard, who was with the „cellule financiere“ of the unit, - and I think he was present at the meeting as well - and some ADL people. We discussed all these complaints from ADL. Before that meeting I made a big briefing file, which I think I included in my e-mail, where I described the situation (...) and tackled each of the complaints of ADL, and gave my position, which was quite a contrary position of course.

What were the results?

There was a compromise on all points; which wasn't supposed to become an "avenant" to the contract. So we tried to find some gentleman's agreement in the way of interpreting the contract, which was even signed by both parties; and which was distributed by Mr Cranfield, so he was aware of that as well. I mean it was quite an important issue if you have such a contract.

Question: Do you have a copy of the compromise agreed by ADL and OPOCE in May 2001?

Answer

I think I sent it to you. I think it is in the file. If not, call me, and I will try to send you one. I mean that was the problem why I did not send it by paper, because I had a lot of things electronically and so it was the easiest thing for me to send it by e-mail, with attached e-mails; etc., which gives it a quite complex structure; if you want to print it out; you do not get it completely. Well, I think I have it. But I don't have it from my office any more. I don't know if I have the compromise, but I have this paper with me here. May I have a look? This here is the paper, which I made for 18/4/2001, so this was in advance to the meeting (..). So that was the preparing dossier from our side, and of course there was the ADL dossier, which I might not have any more, and then there was - I certainly have a copy somewhere - a compromise on each of these points. You can keep it. I have it on my e-mail.

They (ADL) promised everything was going to be better and faster; and that we would be satisfied. This was in May. We went away, and everybody was thinking that now most problems seemed to be solved, and things would become better.

What was the situation?

There was some improvement as far as quality and quantity were concerned, but they never managed to get to near to the 13.000 pages. The planning meanwhile was completely "abandonné" anyway, because initially, as I told you, in this "ad hoc file" we should have been the ones, and that's what our contractual department - especially Mrs. Wasbauer, who was at this time in there, asked us, - that we should be the ones to fix the delays, which was not that clear in the contract. In the contract it said that we fix it, but the problem is you can't say: "OK, I want 3,000 pages tomorrow." Anyway there is a reasonability criterion, even if it's not spelled out; it exists. And then it's of course difficult to say what's reasonable and what is not. The funny thing was that in their offer, ADL said that they would be able to tackle not more than 2 "couches" a day. A "couche" means you add one modifier, then you have an endproduct, and this is an endproduct for us. And then you take this as a basis, add just one more modifier, and you have another endproduct. So you have intermediate endproducts; and then you have the very final, most important endproduct, which is the version where all amendments up to now are included, which is the up-to-date version. The reason for this is to stay in the logic; because if you have things like "and" and "or" replacing and afterwards it returns, you don't find the "or" any more. You need to do it one by one to be sure that you do it correctly. And there was also the reason that a long time ago the Court of Justice had asked to have access to all

*historical version, because when they are dealing with Court cases, they can only apply the law as it is now, but in some cases, they might need to apply the law as it was three, four, five years ago. So they have made it clear that they want to have accessibility to the law in its consolidated version at any moment in time throughout the history of the act.*

*Now, I lost track of what I was saying. I was talking about deadlines. So a "couche" means you have one modifier included, and in their offer they said not more than 2 a day, and in reality they took 3 weeks at least for one. The problem was that they always promised us that the next week or at least two weeks later they would have a fantastic planning system, available for us as well on the Internet, which would allow to see each family where it is, and when it would be delivered. So they completely ignored the delays we fixed, and in a way we did it fictively afterwards. We always said three weeks, which in a way is a delay in which you could do most of the families anyhow, but this was never regarded, and even then, until the last day I was at OPOCE, we never had an overview about when things would really come, because they shifted plans around and even their own plans. Sometimes they transmitted to us planning's, but they were not worth the paper they were written on. The only thing we could get them to do, was that in some cases, where we really had the need for something to be there at a given moment - because someone else had asked for it - then we had a chance to get it. At least with only short delays.*

**Question:** What about irregularities? Do you have knowledge of some irregularities committed?

**Answer**

*Yes, I think one irregularity was perhaps that no penalties were applied. If the contract says there should be penalties, and if you have one bidder calculating the cost of penalties into his bid, and the other knowing that no penalties would be applied, or factually having no penalties applied to him, that is a perversion of the tendering procedure. This is one problem, which is also the case for gentleman's agreements. But in a way that interpretation of the contract, we would have had the same thing with another contractor.*

*For me, the real irregularities start afterwards. This compromise in May 2001 for me was in a way the last limit we could reasonably go to. We know that it is a complex thing, and that three months is a very short period for such a thing and they have to recruit and train people, and all that. Until there I had no moral problems to live with. I was optimistic that things would improve. I was working very hard on this; I spent at least 60/70 hours a week on this, weekends included. What happened then, was that ADL did not stop complaining. So it was quiet for perhaps 2 months after the compromise, and afterwards it just re-started, not with new things, but just with the old things, telling us that they still did not make enough money and that we would need talking about it again. What happened then was that I was excluded from this, so I did not know what was going on.*

Why? Were you given any reason for this?

*I know the reason. My Head of Unit once said to me that I'd better not be involved in this. And the Director General said to me it was a political issue and I was not supposed to get involved in that, that I was dealing with the application of the contract, and not with the political issue. I knew for the first time that I was involved in a sense, that I was invited somewhere in the summer 2001 to a pre-meeting, Mr. Cranfield, Mr. Raybaut, Mr. Steinitz and Mr. Bagola who was dealing with the technical aspects, were there. So we had these complaints from ADL coming up again, and then we*

*scheduled this other meeting. It was a preparation for a meeting from Mr Cranfield with some very high-level guys from ADL, and from Getronics, which are behind Infotechnique, which is behind ADL.*

Question: Was it the first time Mr Cranfield participated in the negotiations with ADL?

Answer

*As far as I know, yes, in the sense of direct participation. No, you can't say that because even in this May thing he was addressee of letters from ADL, as far as I recall, and he was the one sending the compromise out to ADL afterwards. I don't recall who signed it. It was definitely one of the two, either Mr Cranfield or Mr Raybaut. I think Mr Raybaut signed it; and Mr Cranfield dispatched it to ADL with a cover letter. Mr Velluet who is the Chairman of Infotechnique, had regular contacts with him. So they might have discussed that on any other occasion. I do not know. But as far as official meetings are concerned, this other one that took place in the summer somewhere was the first official meeting between them, and I think it was the first one where this Getronics guy was, whose name I do not recall. I asked for some minutes at least of that meeting but was told there were no minutes. Mr Neto, who is Deputy Head of Unit of Mr Steinitz, did not know anything about the whole problematic going on. By chance, he got something where at least the main ideas of that meeting had been recorded, which for me, is the minutes, and which I asked Mr Cranfield and confronted him with, and he told me "No, no, these are no minutes". After that, I no longer heard anything about it. I once heard something about a meeting between Mr Raybaut and ADL one afternoon about consolidation. During the meeting with ADL they told me "OK this afternoon we are going to see Mr Raybaut"; and I did not know anything about it. At some stage, I think, I got a mail from Mr Neto as well that Mr Raybaut was asking to be briefed on the latest on consolidation. He did not contact me, and Neto got it, because Steinitz was away apparently. Then I got it, and then I made a reply to Raybaut which was dated from October. I think I have it here as well. There I explained the situation, and because of that they should have had concrete figures about the volume delivered and rejection quotas, and there was still a lot. The next thing I saw or heard about was that there would be an "avenant" to the contract and that we were supposed to ask to make new "bons de commande" for sourcefiles to ADL. In the first place, for families which were going to be consolidated.*

*The idea of the "ad hoc dossier" was to say: "OK, it's family based". For a larger family we ask for everything related to that family, the source file and the production of the consolidation, we put all that together in a file where we estimate the volume and fix the delay. That was the initial idea. The idea behind that was to say: "OK, we don't want to have source files produced because we do not know if we still need them when we come to consolidating that family". The problem was for legal acts, they can be "abrogé" at any time. When an act was repealed, of course, it did not need to be consolidated any more. 20 per month at least, are repealed. We did not want to run into situations where we produce families which are not necessary. So we want to have the period from the decision to do it, until the moment we have it, to keep it as short as possible. Then there was a compromise. I think ADL sent us a letter somehow saying that they will not invoice or reimburse source files costs in such cases. But for me, it meant extra work as well because our whole production method was situated with this per family-approach, and then we had to make massive queries and find ways to find out which source files we needed in the next half year instead of doing it on the one-by-one basis. Afterwards, in December somewhere, there was even the idea to ask even more, and then they were coming up with things which had already been consolidated in the old system. So from my perspective, this was complete nonsense to ask for the sourcefiles again for something which we had already done or to ask even consolidation of it again. There was one reason for it, in the sense of*

*consolidation source as well as being a source for codification. We did not manage to transfer some of these old acts into the new system. So there was a technical Operation, a conversion procedure, and for some it did not really work. However, it would have been easier to just re-encode this consolidated text based on the old version. Of course, you would not have had all the history, but I think it is something we could have lived with.*

*But ADL did not stop. They wanted even more, and I think they made a compromise with my hierarchy somehow that they should get 250,000 source files demanded, and I do not know how this whole story ended. Then, but that was it, after I left already. And I was not willing to co-operate with that. The problem was this; that we need to come back to the source file and consolidation production differentiation.*

*In the call for tender we clearly distinguished these two procedure types, and ADL said they wanted to make a profit in the first part, in the source file part. In the call for tender we had a table where we calculated a huge amount of source files. I think it was 700.000 pages. This was wrong. The table as such was not wrong, because the problem there was that we made a table where we had the number of source file pages related to a family of a given year. E.g. if you looked at the year 1952, which was the first one, for producing each family of the year 1952 in consolidation. To get to the amount of source files we would need then we made an estimation, about those which we could already have in our archives - in that case nothing because it is too old, but for the recent ones, we could have had something already - and then we came to a number of pages of source files which we might need for that given year; and then the same for the next year.*

*Now the problem is that you have two decisions which are the two Norwegian decisions: Council Decision 1 of 1995 and 101 of 1973, if I recall correctly. No, it is decision 1 of 73 as well; but the Celex number was 101.*

Could you please clarify those numbers?

*The CELEX numbers are 395D0001 in the one case and 373D0101(01) in the other. These are the two decisions which undo the planned accession of Norway. So what they do is they change in 200, 500, whatever number of secondary Community Law the amendments which before had been in the accession agreement, in the accession treaty. The problem is that these are both relatively big, I think one has 100 pages and the other 200 pages. If you now calculate per family you have a lot of families that appear, with 100 pages multiplied by 11 because of the languages, you already have 1,000 pages per family. If you do that, and you add it up simply at the end, you simply add up the sub-total, you get a complete false picture. Even so, from a pure mathematical point, it is correct, because you need to treat that, because we were not able to say "OK we will treat this sourcefile already in family X" because nowhere it was fixed in which families all the source files should be treated. And that's why they were included everywhere. That's what made up the 700,000 pages. It is those two extremes. There are some others because there are lots of other modifiers which modify more than one family, and there you have the same problem.*

(END OF TAPE)

*In the call for tender we had a table which from a pure logical point of view, was correct because it was based per year, but which was able to give the wrong impression. But my opinion was that in the contract, it's in the laws in Art. 2 or Art. 4, where it says that the Commission does not engage itself*

*to ask for the full amount of work, and could, at any time reduce the volume of work. The whole contract in principle is that we just have the possibility to ask for work to be done and that we do not engage ourselves in anything in the sense of volume. ADL always said "OK we want those 700,000 pages because otherwise we won't be able to go on. That's the basic idea!*

*I don't think there was any corruption, but the problem was that there was political pressure for the OPOCE to get this consolidation done. Initially it should have been done till the end of 2002. Now they are talking about mid 2003, especially in the context of codification as well, and in some relation to the amendment of the new member States. Everybody knew that ending the contract with ADL would have the only consequence to delay the whole operation. In my view, if you go for it, i.e. ending the contract that would have meant, that we would not have met the deadlines.*

*So the only alternative not to loose this political goal, to have consolidation done, was to find an arrangement with ADL. So on the one hand, I understand that, but on the other hand, I think if you do that, you do not need to make calls for tender any more. Because what happens now is that we in a way become hostages of the contractor and they dictate us what we have to ask for, and they even dictate us an amendment to the contract. That's what happened then after all these negotiations, in which I did not take part. There was an amendment to the contract made which was leading to the fact that the former maximum price for consolidation was changed into a fixed price per page. Which had some advantages as well, in the sense of reducing the amount of workload for us in the controlling procedure, because this horrible concept of several different invoicing positions (unit based) made this very difficult to count and to control.*

*However, this problem was already solved, because I developed on my own invoice control system and I did that against the wish of my Director, because he, in a meeting said to me we should not care too much about how to collect all these invoicing data for the control services. It's about how many units of a given unit were treated, how many characters, how many modifications. According to him we should just rely on ADL for this. I thought it would be possible, and I proved that it is possible to calculate all these units from the electronic files which we get - it's quite a complex thing but we can do it. That's what we did, and the application for doing this was already built up at this moment of the avenant and it was working. So our financial guy was already dealing with that all the time. Perhaps now it is a bit faster; he just needs to look for the number of pages, but he was in full control of it.*

*The former maximum price was now changed by a fixed price per page for the consolidation; this was higher than the older one. These are figures which I do not know exactly, but I think they were changed from 4,80 € for the production as a maximum price in the old days + 22 cents for the delivery of the page to 5,02 €. This was vis a vis the CCAM - which I was not involved with, I didn't know about anything it - founded with the argumentation that ADL will produce less pages thanks to the so-called saving "couche" problem, and these saving couche pages would not be involved at all any more, and this would in a total lead to a reduction of, I think they mentioned 14%. What happened then afterwards was, the avenant was signed on 17 Dec 2001.*

*I think then we had the problem that we had dossiers at different stages of the production. So we had dossiers which were completely delivered, others which were accepted. There were dossiers which were in the middle of it, where some pages had been delivered, and some others not. And we had a lot where we only were halfway through. It was sent out on the basis of the old contract; then the contract changed. The question was then "What should apply there?". There Mr Steinitz's policy was to apply the same for those. The borderline was anything that was not yet delivered would follow the new contract, which in my understanding was a bit doubtful. But the major point then*

afterwards was, that - this was for me at a stage where I was not involved in the things I had to execute - even if in the avenant it said explicitly that they should not count they applied the avenant even for the so-called saving couche thing All this amount of pages which had led to the theoretical reduction of 14 %, which was the basis for the CCAM agreement. I think so, because I doubt how the CCAM would have signed for an avenant to the contract if it costs more for us! There have been no benefits for the Commission.

Then the price for saving couche was reduced by applying even a different price on this - which was not a full price - but then there was this exchange of letters between ADL, Mr. Steinitz and Monsieur Brack. You have the final note of this.

The avenant was made to the contract, in my view, so that the contractor could make his benefits: We never applied penalties, even though they were in the contract. We never enforced our contractual rights as far as delivery & invoicing are concerned. We asked for things which we initially did not plan to ask for; just to give them a chance to make more return. I mean that's my view. I don't say it is like that, but that's the way I feel, and that's why I quit!

Question: Was there any corruption involved on behalf of Commission employees?

Answer

I don't have any indication for this. The only indication I have is that I got a present from ADL in September 2000. My daughter was born.

At this stage I don't know whether you're going to say something that might incriminate you in some act that you should not have been involved in.

No, I can say it, I turned it back, I got a cheque of 10.000 Belgian francs (= € 250) to buy myself a present for my daughter and I turned it back. I reported it to Mr Steinitz, who said I should turn it back.

You have no proof that anyone else received any improper inducement. Do you believe that only you received that improper inducement?

No, I really think that the basic problem is that we are opposed to situations, which you cannot handle. I'm not even sure, apart from the fact that I have personal problems with them, I've always been unhappy with the situation and how they treated me. But I think the basic problem lies in all these procedures, I mean all this public procurement where it takes one year to get a contract, and that inflexibility - you can't change anything afterwards any more in a normal way - and then you have the political pressure on the one side; the contractor which is the only one who could do the work has a certain influence. It's just the problem of finding the right way. Where can you still go with them, and where can you find a fair compromise? And where, do you give yourself completely into their hands? And there I would really like a clarification from your side. Where is the borderline?

Yes, the border is between a serious contractual problem and irregularities involving your hierarchy.

Yes, but if your hierarchy starts doing things what do you do?



Is it the position that this company in fact blackmailed, the Directorate saying unless we get more profitable contracts, we're not going to continue this contract. The Directorate is faced with severe political pressure to get the job done. To some extent, the job has to be done regardless of costs. If we cannot stop enlargement over half a million €

*it would not have stopped enlargement*

or even delaying the process.

*There was always an argument from Mr Steinitz as well, that to compare the costs with the costs of Euroscript. He was right that ADL was still much cheaper with all these things done now. It is still much cheaper than Euroscript would have ever been. But is this something which could count?*

Is this a situation where you feel that there should be a better, a stronger enforcement of contractual rights, there should be better procurement and tendering procedures.

*The one can't go without the other. The problem is the OPOCE as well. You have very specialised problems; and you have your contractors. You are not in a situation where you really go on the market and get 100 offers from people you never heard about, and you can choose the best. You have your contractors and you know that if they step out, you have a serious problem, and you don't find anybody any more. And then over the time, there is the establishment of practices in the way of what you can do and how you deal with penalties and all those things and they know. And they try to push into their direction. I think the more you go in one contract, the more you risk to be driven into the next, because they learn, and they will advise us next time. Sometimes you have to pay the price, and my problem is also that I come from a legal background, even though I said I'm not so "formalistic" myself, there is a borderline, and for me, this was over the borderline, especially if you are going to prepare dossiers like the CCAM dossier. And then you go into the other direction.*

*They knew when preparing the CCAM dossier, they must have known, that it is not a saving that it could never have been a saving. All this was initiated by ADL to get more money out of it. So how could you go there and say it is a saving.*

Question: What could your hierarchy have done that they did not do given the whole situation?

*Answer*

*I think the problem started in the early days of the contract. There they should have said to ADL: "So, you have till the end of 2000, you are there at your production engagements or you are not there. If you are not there we apply the penalties on the contract for each and every page until you step down, until you say, OK we do not want to have 100% any more; we want to do a 1/3 we want to be realistic" and that's how we could have got Euroscript into the place. And having Euroscript into the place, there could have been alternatives. I mean I had a personal problem with that as well, not to make that written and too much in the papers because the mother of my children was working at Euroscript, so I didn't want to be officially pushing too much into that direction and give the wrong impression. She is not anymore. That would have been a good sign and a way of dealing with that.*

*The other sign would have been in summer 2001, when ADL came for the second round, clearly giving them a stop sign. We had been at the borderline in May, we had made the arrangements. They*

*had agreed to that. So why did we do all that. If they had just been stepping in again, and we are doing as if there was nothing and we just go on negotiating.*

*I think these are the main two points where you should have gone into the other direction. And I proposed that. The other thing is, we have had mistakes earlier on. I think OPOCE still has a completely under-equipped legal department. If they had a sound legal department; they would have had to test our contracts, question if our way of doing was reasonable, have more time to prepare the call for tender. There was enormous time pressure from the beginning of this project. And of course, if you are under pressure you make mistakes, and that's perhaps why we had this table and we could have given a wrong impression.*

The function of OLAF is to investigate fraud or other irregularities, in financial terms. It does not seem, from what you are saying, that there was any fraud, and you think there probably wasn't any fraud I just want to summarise. The other area would then be irregularities have to be something with more than making bad decisions, or not making decisions that in retrospect maybe should have been made. It has to be someone doing something nearly akin to a fraud, something that you can look at and say what you did was wrong, not that you've made a bad decision. So it would then leave a situation, looking at this, that possibly what we should be looking for, or what should happen is that somebody should look into the way your Directorate deal with contractors, deal with the tendering process, without saying that a particular person is guilty of an irregularity you are liable to dismissal possibly demotion, refusal to appoint you up to a higher level, and it is a kind of disciplinary level.

*So is this the end?*

No I am just trying to talk which - we are not saying anything. I'm just trying to find out where we would go we do have a fraud. So you think that the area would be the dossier sent to CCAM and that there was no saving

*and the payment for non deliveries.*

You think these are the two most severe points? So the CCAM dossier and the payment for work that was not as reported just to make sure that they get an overall profit on the contract.

Question: When did Mr Cranfield join? He wasn't a Director General when the contract was entered into, was he?

*Answer*

*I don't know.*

He was not there when the contract was prepared, was he?

*He wasn't there when it was prepared. And if he was there, he might have been there in mid-2000. I'm not sure.*

*There is something that I have not mentioned yet. There I do not have any proof. I heard it, but I cant prove it.*

*The former second man of OPOCE, who is now Director at the Parliament is a Luxembourger (Mr.*

*Tonhofer). During meetings he was claimed as a reference by ADL. He stepped back from his office at the publications office for a while and during this period apparently he worked as a private consultant for ADL in the procedure for call for tender. Afterwards, Mr Raybaut in a way took his post which then was a director's post.*

One of the things you said at the outset is that the company had not got the experience, had not got then staff and was not competent to take on the contract.

*They did not put enough effort, they did not put enough staff in it. They underestimated the workload. I wouldn't say they were incompetent. It wasn't in so that nothing was right. On some day you could state that 95% of the stuff was OK. But there were some mistakes; and we did not want to get into a situation where we would let through the level of mistakes.*

Question: Is there anything you want to ask us?

Answer

*Yes. What will happen next?*

In fact, we'll review what you have said here, we'll review the file and decide what the next step is. This is the first step in the procedure. We'll go over and look at the whole. And the investigation has been opened it is an ongoing investigation and we see where we will go, or where we can go with it. Procurement contracts always have difficulties, even in private sector there are difficulties. Our competency is in relation to fraud and irregularities, OLAF's duty is to protect the financial interests of the E.C. from fraud and other irregularities and that is what we have to focus our efforts on to see is there anything - what falls within our competencies.

*Just for illustration on payment, the classical case, which we have, which appears quite often is the so-called Eurodisclaimer. What is that all about? As you know, we now have the Euro. Before we had the ECU. There is an act which says that every reference to the ECU should be read as a reference to Euro, which in a way is an amendment, which would have meant to replace thousands of ECU statements by Euro, which would be a very costly and cumbersome effort. So we decided not to do that, but to have a little box on the so-called cover page, where you have a list of the basic act and all the amendments saying please be aware that due to this act No. 397R1103, our reference to ECU should be read as a reference to Euro. So the question was how should that be priced. In the old days, we used some of the unit and there was some negotiation with ADL to do that. So in the end we came up paying some € 50 or something. What happened now, due to this new contractual thing is that they said this is a new deliverable. So we don't look at this Eurodisclaimer. We just say this is a single act, because the Euro act did not do anything else to the act; just modifies this. So this is a level as any other in a way, and now they apply this 2.8 € price per page for the whole act. That's fair enough, if it is just the one page. If it is 10 and you have the factor 11 in your head, or 100 pages for the basic act; then this counts. It really is money. That's where a lot of money is spent on nowadays.*

TAPE 2 SIDE 2

*Before we spent a lot of money on the effort, which was in a relation to the effort. Now it's not in relation to the effort any more, because it is just under pure amount of pages which is by chance. This is why it is a crucial point because that's where most of these saving couches come from now.*

*I have one question: Who knows about all this now? Is it just OLAF and me, or is there anybody else, especially at OPOCE who already knows?*

Not at this stage. But the reality is that as the investigation progresses, if it progresses, obviously other people will come to know about it. If your allegations are pursued, they have to be put to the other people who were involved in the contractual dealings in tendering process. So the reality is that at some stage everybody in there will know. It will be some time before people know because we will go on a step-by-step basis. Have you any difficulty with that?

*No, I imagined that when raising the problem. If my name would have been kept out by the pure fact of what it is all about and what knowledge you have. If you do not want to spread it around, and you want to just have another view on it. Mr Jean-Marc Dehoy may be someone to talk to because he is the one who followed this; he was working in my section dealing with the financial things, and we often spoke about these things. He doesn't know that I launched all this.*

Where is he now?

*As far as I know, at OPOCE.*

*How long will it take? So I will get your protocol and I will be informed whatever the decision you take.*

Eventually. I mean at this stage you are part of an investigation, you are witness. But we don't liaise with witnesses in general and tell them what we are doing. This is the first step of the investigation, so we will not inform you in every detail, because the investigation is still in progress.

*As long as I do not hear anything from you, it is still in progress. Otherwise I will get a closing message from you? Is there any possible way that it could turn around and against me?*

No. We can make you no promises, but under what is called the whistle-blowing decision, no adverse consequences can be taken against you. In other words, you cannot be demoted or dismissed or anything like that.

*The problem is that for the notation Mr Steinitz or Mr Cranfield will be involved, because during the time, which will be notated, I was under their supervision.*

I think you refer to a Commission decision according to which there should be no negative consequences. We cannot enforce, all we can do is make you aware of the decision. Provided you go through the procedures. And under that decision as well we are obliged to tell you how long the investigation will last. You will be notified once we assessed all the evidence and we will let you know as soon as we can. We will forward you a typed version for your signature and amendment. You're entitled to amend if it does not reflect what you have said. When it is signed, you return it to us.

