



EUROPEAN ANTI-FRAUD OFFICE

Directorate D: General Affairs

Director

**Mr Maximilian Henning**

Calle de Gaztambide 30  
3 centro  
28015 Madrid  
Spain

Via registered mail

Subject: **Your application for public access to documents  
Ares(2022)2940982**

Dear Mr Henning,

We refer to your application of 8 April 2022 for public access to documents under Regulation (EC) No 1049/2001<sup>1</sup>, registered in OLAF under reference number ARES(2022)2940982.

### **1. Scope of your application and identification of the relevant documents**

You have requested public access to the following documents:

*"The results of the IT satisfaction survey OLAF conducts according to <https://eur-lex.europa.eu/legal-content/> ..., for the years 2015 to 2021."*

OLAF has identified the following documents falling within the scope of your request:

- (1) IT satisfaction survey for year 2015 – Ares(2022)3427501
- (2) IT satisfaction survey for year 2016 – Ares(2022)3427501
- (3) IT satisfaction survey for year 2017 – Ares(2018)6269217
- (4) IT satisfaction survey for year 2019 – Ares(2022)3401820
- (5) IT satisfaction survey for year 2020 – Ares(2022)2962028

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43–48.



Please note that the survey report for year 2017 covers two years (2017 and 2018). The survey for year 2021 was not launched yet.

## **2. Assessment of your application**

### *2.1. Documents (3), (4) and (5)*

I am pleased to inform you, that having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that documents (3), (4) and (5) may be fully disclosed. Please find these documents attached to the present letter.

### *2.2. Documents (1) and (2)*

As regards documents (1) and (2), I have come to the conclusion that may be partially disclosed.

Some parts of the documents (1) and (2) have been blanked out as their disclosure is prevented by the exception to the right of access laid down in Article 4(3) second paragraph of Regulation (EC) No 1049/2001. This article stipulates that access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

The redacted parts of the documents (1) and (2) contain the comments made by the staff members of OLAF. These comments reflect their individual views on how to improve OLAF's IT systems and services, their experience with those services, their expectations, etc.

I consider that the disclosure of these comments would seriously affect the decision-making process of OLAF, as it would seriously jeopardise the process of making future satisfaction IT surveys. Indeed, such disclosure could discourage OLAF staff members to share openly their opinions concerning their experience with the different IT tools in OLAF. They must be reassured that their statements will be kept confidential otherwise they might be inclined to censor their views and the information they give. This could seriously impinge on the effectiveness of OLAF's decision-making process when carrying out IT satisfaction surveys<sup>2</sup>.

The exceptions laid down in Article 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. For such an interest to exist, it, firstly, has to be a public interest and, secondly, it has to outweigh the interest protected by the exception to the right of access.

According to the case-law, the administrative activity of the Commission does not require the same extent of access to documents as required by the legislative activity of a Union institution<sup>3</sup>.

I note that you have not put forward any argument that would demonstrate the existence of an overriding public interest. Nor have I been able to identify any public interest capable of overriding OLAF's interest in protecting its internal decision-making process in this case.

Please, find the redacted version of documents (1) and (2) attached to the present letter.

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<sup>2</sup> By analogy, see judgment of 26 April 2016, *Strack v Commission*, T-221/08, ECLI:EU:T:2016:242, paragraph 153.

<sup>3</sup> Judgment of 27 February 2014, *Commission v EnBW*, C-365/12 P, EU:C:2014:112, paragraph 91.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting OLAF to review this position. Pursuant to Article 4 of Commission Decision 2001/937/EC, ECSC, Euratom, such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Director General of OLAF.

Any confirmatory application to OLAF should be sent to the following address:

Mr Ville ITÄLÄ  
Director General OLAF  
European Commission  
Rue Joseph II, 30  
B-1049 BRUXELLES

or by email to: [OLAF-FM-D2@ec.europa.eu](mailto:OLAF-FM-D2@ec.europa.eu)

Your attention is drawn to the privacy notice below.

Yours sincerely,

Beatriz SANZ REDRADO

#### **Privacy notice**

Pursuant to Articles 15 and 16 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by Union Institutions, bodies, offices and agencies and of the free movement of such data, please be informed that your personal data are stored in OLAF's electronic and paper files concerning this matter for the purposes of ensuring conformity with the requirements of Regulation 1049/2001 and Commission Decision 2001/937/EC.

The categories of your personal data being processed are identification and contact data and any other personal data provided by or to you in relation to your request. Officials within OLAF and other Commission services responsible for dealing with requests for access to documents, and third parties, within the meaning of Articles 4(4) and 3(b) of Regulation 1049/2001, and Article 5 of Commission Decision 2001/937/EC, have access to your personal data. Personal data that appear on the requested document may only be disclosed to the applicant following an assessment under Article 9(b) of Regulation (EU) 2018/1725. There is no automated decision process by OLAF concerning any data subject.

The retention period for public access to documents which do not concern OLAF investigations is a maximum of 10 years.

You have the right to request access to your personal data, rectification or erasure of the data, or restriction of their processing. Any request to exercise one of those rights should be directed to the Controller ([OLAF-FMB-DATA-PROTECTION@ec.europa.eu](mailto:OLAF-FMB-DATA-PROTECTION@ec.europa.eu)). You may contact the Data Protection Officer of OLAF ([OLAF-FMB-DPO@ec.europa.eu](mailto:OLAF-FMB-DPO@ec.europa.eu)) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

You have the right to have recourse to the European Data Protection Supervisor ([edps@edps.europa.eu](mailto:edps@edps.europa.eu)) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by OLAF.

The complete privacy statements for this and all other OLAF personal data processing operations are available at [http://ec.europa.eu/anti\\_fraud](http://ec.europa.eu/anti_fraud).

Annexes:

- (1) IT satisfaction survey of year 2015 – Ares(2022)3427501
- (2) IT satisfaction survey of year 2016 – Ares(2022)3427501
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