



European Ombudsman

Secretary-General

Mr Guido Strack

ask+request-1422-a48d7fcf@asktheeu.org

Strasbourg, 2 SEP 2014

Dear Mr Strack,

I am writing in response to the following part of your document request of 29 July 2014 (INC2014-004272):

*"any documents including drafts consultations and **replies by your staff** (...) used in (...) the process of drafting your new internal rules/policy on whistleblowing."* (Emphasis added.)

On 21 August 2014 (OUT2014-003884), the Head of Registry informed you that this part of your request required further analysis. The present letter contains that analysis.

I have decided that the individual contributions made by staff members in response to the internal consultation that was carried out by our Staff Committee must not be disclosed. That decision is based on Article 4(1)(b) of Regulation 1049/2001, which provides that access to documents shall be refused where disclosure would undermine the protection of "*privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data*".

I take the view that, in this particular case, the protection of the staff members' privacy and personal data would be undermined by public disclosure of the contributions here in question. The specific reason for this conclusion is two-fold. First, the Staff Committee informed staff members that their contributions would be dealt with confidentially. Second, even if the names of the staff members in question were to be blanked out, the small size of our Office would make it likely that other people in the Ombudsman's Office identify the authors of particular contributions. The purpose of keeping the contributions confidential was, in the first place, to allow staff to express their views freely without having to take account of what colleagues, including management, might think of the views they had put forward. I can confirm that the management of our Office does not, in fact,



know which members of staff, or even how many, responded to the Staff Committee's consultation. I would also like to inform you that, according to the Staff Committee, the relevant content of the contributions is fully reflected in its own report which our Head of Registry disclosed to you in his above-mentioned letter of 21 August 2014.

It follows from the above that I also cannot grant partial access to the contributions.

In accordance with the European Ombudsman's Decision of 28 May 2014, adopting internal procedures for dealing with requests for information and applications for public access to documents, you now have the possibility to submit a confirmatory application to the Ombudsman. You may do so by replying to the present e-mail. In that case, your reply will be forwarded to the Ombudsman's Cabinet. I understand that you are aware of all the other possibilities to send correspondence to the Ombudsman.

Yours sincerely,

Ian Harden
Secretary-General