

Doc 1.1

Member of the European Parliament

Brussels, 24 June 2010

Re: Disclosures under Article 22b of the Staff Regulations

Dear Mr. Barroso,

The European Parliament's committee on budgetary control has appointed me as its rapporteur on a forthcoming study on whistleblowing. In the framework of the interim report which is due in October of this year, I would appreciate if you could soon inform me on the following matter.

Article 22b of the European Communities' Staff Regulations regulates the right of EU officials who meet certain conditions (whistleblowers) to address the President of the Commission or of the Court of Auditors or of the Council or of the European Parliament, or the European Ombudsman. Borrowing the essential part of its text from Commission Decision 845 of 4 April 2002, the article does not detail what follow-up the institutions should give to the disclosed information; it only specifies that officials meeting these conditions should not suffer any prejudicial effects after disclosing information.

Can you please let me know in writing:

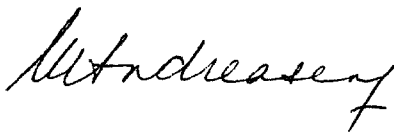
- 1) How many whistleblowers have formally approached your institution's presidents between 4 April 2002 and 1 May 2004, when the Staff Regulations came into force? How many approached you after 1 May 2004?
- 2) Have all those who invoked article 22b done so on single issues, or have some informants come back to you or your predecessors with other issues, thus increasing the number of cases whilst leaving the number of informants the same?
- 3) How many whistleblowers have complained about the treatment of their case by OLAF?
- 4) Has your institution established a standard procedure to deal with Article 22b disclosures, and has that procedure changed over the years? If so what is the procedure and how and when has it been changed? If not, could you describe in general terms how your institution has handled such disclosures until now?
- 5) When establishing or modifying a standard procedure as referred to under point 4) did your institution take into account recent judicial decisions and studies (such as the one carried out for the European Parliament in 2006)?

- 6) Did your institution communicate its follow-up measures on the disclosure to the whistleblower?
- 7) What means of investigation does your institution have to verify if allegations by informants (e.g. on insufficient action on their case by their superiors or by OLAF) are well founded? How and, in general terms, with what results have such means been used?
- 8) Has information provided by whistleblowers ever led to changes or did the disclosures at least influence activities within the normal execution of your tasks (e.g. audits)?
- 9) Jurisprudence ¹⁾ has established that whistleblowers have no legal right to ask the courts to check if OLAF and the concerned institution actually took "appropriate action" (in the sense of article 22b). If the courts consider that they themselves are not the appropriate body to control this, who in your opinion might be?
- 10) Lastly, in your opinion has any whistleblower ever proven that he or she has suffered because of his or her whistleblowing and therefore that article 22b has been violated?

Your replies may prove to be of great value.

The analysis of the assembled replies of the institutions' presidents and of the Ombudsman might lead to a renewed call on the Commission to redraft the article 22b in 2012. For this reason, I would appreciate your replies to these questions in the forthcoming weeks.

Sincerely yours,



Marta Andreassen

CC: Secretary-general Catherine Day