



EUROPEAN ANTI-FRAUD OFFICE

Directorate C Investigation Support
Director

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Via e-mail and registered mail

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Subject: **Your application for public access to documents**

- Request for detailed statistics on accredited whistleblowers -

Dear Mr Rotherham

We refer to your e-mail of 10 May 2016 in which you make a request for access to documents under Regulation 1049/2001.

1. Scope of your application

You have requested public access to the following documents under regulation 1049/2001:

- The current number of complainants who are currently accredited with the official status of whistleblower by OLAF.
- Copies of analysis undertaken to break down this group by category – for example DG, by institution, by gender, by nationality, by staff grade, by number who left their job because of their whistleblowing.

2. Preliminary remarks

OLAF wishes to clarify from the outset that OLAF is legally bound to treat all information it obtains during its investigations as confidential and subject to professional secrecy, in particular pursuant to Article 339 of the Treaty on the functioning of the European Union, Article 10 of Regulation (EU, Euratom) No 883/2003 and Article 17 of the Staff Regulations.

However, the purpose of Regulation (EC) No 1049/2001 is to give access to documents to the public at large. Any document disclosed to an individual under this Regulation then becomes automatically available to any other member of the public whenever there is a subsequent request. Consequently, attention is drawn to you to the fact that documents disclosed under this Regulation enter the public domain.



3. Reply

In answer to your first question, OLAF does not accredit EU members of staff who disclose information to OLAF with the status of whistleblower. This can only be done by the disclosing EU member of staff's human resources department, when dealing with requests for protection against retaliation.

OLAF receives information from EU members of staff wishing to disclose information and whose statuses have not been confirmed by the relevant services.

OLAF has a policy of protecting the identity of all informants, whether they are EU members of staff or external to the EU institutions.

Your second question concerns the availability of detailed breakdowns concerning accredited whistleblowers. OLAF has no record of the detailed breakdowns you describe concerning accredited whistleblowers. In T-436/09 Dufour v ECB¹ the General Court of the European Union held that a request for access may relate only to a document that already exists and may not, therefore, necessitate the creation of a new document. There is therefore no duty on OLAF to compile specific statistics, in order to satisfy your request.

In any case, it would not be possible to publish such breakdowns, as their detailed nature would make it possible to identify EU members of staff disclosing information to OLAF in confidence.

For your information, OLAF does publish some information concerning sources of information in its annual reports (<https://ec.europa.eu/anti-fraud/about-us/reports/olaf-report>).

4. Confirmatory application

In accordance with Article 7(2) of Regulation 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.

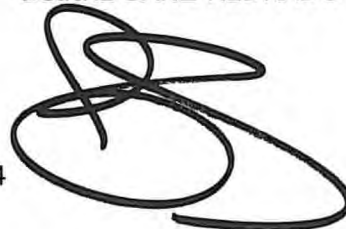
Any confirmatory application to OLAF should be sent to the following address:

Mr Giovanni KESSLER
Director-General OLAF
European Commission
Rue Joseph II, 30
B-1000 BRUSSELS.

Your attention is drawn to the privacy statement below.

Yours sincerely,

Beatriz SANZ REDRADO



¹ T-436/09 Dufour v ECB EU:T:2011:634 para 149-164

Privacy statement

Pursuant to Article 11 of Regulation (EC) 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on 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.

The categories of your personal data being processed are identification and contact data (name, address, e-mail, telephone, fax) 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 have access to your personal data.

All documentation and communications concerning OLAF investigations are stored in the relevant OLAF investigation files and are retained for a maximum of 15 years. Thus personal data contained in requests for public access to documents concerning OLAF investigations are retained for a maximum of 15 years.

You have the right to access those data and to correct and complete them. On request and within three months from its receipt, you may obtain information concerning your personal data which we have processed. Any such request should be addressed to the Controller (OLAF-FMB-Data-Protection@ec.europa.eu).

You may lodge a complaint concerning the processing of your personal data with the European Data Protection Supervisor (edps@edps.europa.eu) at any time.

The complete privacy statements for this and all other OLAF personal data processing operations are available at http://ec.europa.eu/anti_fraud.