



EUROPEAN ANTI-FRAUD OFFICE

Directorate C: Investigation Support
Director

Mr Orestis BEKAS

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Brussels
ARES/C4/HC/mi(2014)63787

Subject: Your request for access to documents

Ref: GESTDEM 2013/3824

Dear Mr Bekas,

I refer to your note to the SG which you requested should be sent to OLAF in response to OLAF's letter (ARES(2013)2794632) of 31 July 2013. This note was forwarded to OLAF on 19 September 2013, so that OLAF may respond to your requests under points 12 and 13 of your e mail dated 4 July 2013, for access to OLAF documents under Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents.

I refer to OLAF's response to you of 31 July 2013, in which OLAF explains that following Article 6 (1) of Regulation (EC) No 1049/2001, the description given in your application is not sufficiently precise as it does not enable us to identify specific documents which would correspond to your request. The application was missing information, such as the types of documents, the approximate date, the title, the name of the author or registration number of the documents which would enable it to identify the documents you are requesting. OLAF is therefore not in a position to identify a new set of documents for possible disclosure.

Your replies did not assist us in identifying specific documents which would correspond to your request and rather points towards general questions relating to the legal bases for OLAF investigations and to personal data protection throughout various services of the Commission.

Therefore, OLAF is not in a position to treat your requests for access to documents as a confirmatory application as OLAF has not sent you an initial reply in accordance with Article 7 of the Regulation. OLAF's reply dated 31 July 2013 is a request to clarify the scope of your application.

It is important to note that the applications could only be made to existing documents. It means that within the legal framework of Regulation 1049/2001, OLAF does not have to create new documents to meet a given request, nor reply to requests for information, rather than to documents *per se*¹.

There are no specific policy documents based on investigations in relation to individual types of grants or funding. I refer you to OLAF's Europa website for information on OLAF's legal framework, investigations and procedures at http://ec.europa.eu/anti_fraud, where you will also find the complete privacy statements for OLAF investigations and all other

¹ See Case T-264/04 *WWF European Policy Programme v Council*, p. 75 to 77.

OLAF personal data processing operations, including those that were sent to the EDPS for prior checking.

OLAF also reminds you that it carries out all investigations within its mandate and on the basis on the legal framework applicable to its investigations. Moreover, the Guidelines to Staff on Investigative Procedures are adopted to provide practical guidelines to OLAF investigators on procedures and to ensure that all OLAF investigations are treated in a consistent and coherent way thereby guaranteeing the legitimacy of the investigations.

OLAF provided you with a privacy statement in its reply of 31 July 2013. I would like to draw to your attention that 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, if you consider that your rights under Regulation 45/2001 have been infringed as a result of the processing of your personal data by OLAF.

If you are able to provide us with further details allowing us to identify the document(s) of interest to you, we will review whether they can be publicly disclosed and sent to you in accordance with Regulation (EC) No 1049/2001.

Your attention is drawn to the privacy statement concerning personal data below.

Yours sincerely,



Beatriz SANZ REDRADO

Privacy statement

Pursuant to Articles 11 and 12 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 carrying out OLAF's investigative and operational tasks. The categories of your personal data being processed are identification data, professional data, and case involvement data. Your data may be transferred to other EU institutions, bodies, offices and agencies, competent Member State and third country authorities and international organisations in order to ensure appropriate conduct and follow-up of the investigation. Your data will be stored 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.