



EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

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Brussels,
ARES/C4/LJ/im/(2013)3213573

Subject: Your application for access to documents of 11 July 2013

Dear Sir/Madame,

I am writing in relation to your e-mail of 11 July 2013, registered in OLAF as Ares(2013)2949105 on 30 August 2013, by which you submitted an application pursuant to Article 6(1) Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹.

In your application, you have requested public access to:

"all documents/records providing a detailed list of all the access to documents requests received by OLAF in the calendar years 2011 and 2012, which should indicate in particular:

- a) The subject of the request made (i.e. the specific document(s)/record(s) requested);
- b) The (type of) requestor;
- c) How the request was submitted/received (online form, direct email, via www.AsktheEU.org, phone, mail or other);
- d) The initial decision on the request, including the basis upon which any refusals to grant access were made (prior to any confirmatory applications);
- e) Whether the institution consulted with third parties (including other institutions and outside parties) prior to responding to the request;
- f) Whether or not the initial refusal or partial refusal resulted in a confirmatory application;
- g) Whether the confirmatory application was successful or partially successful (ie. it resulted in a partial revision of the initial response), or whether the confirmatory application resulted in a confirmation of the initial denial;

¹ OJ L 145, 31.5.2001, p. 43.

- h) Whether or not partial access was granted to the documents;
- i) Whether or not access to the entirety of the document requested was denied;
- j) The time taken to deal with each request (i.e. including confirmatory applications, where applicable);
- k) The number of times the deadline was extended, the amount of time it was extended for, and the reasons for the extension;
- l) Whether the requester was asked to clarify or narrow their request, or to provide more information about themselves or about the reasons for their request."

The current information system does not have embedded an extract for this type of data. According to the case-law of the European Court of Justice, the public's right of access to documents under Regulation (EC) No 1049/2001 only applies to existing documents held by the institutions. Thus it only covers documents and not information in the wider meaning of the word and does not imply a duty on the part of the institutions to reply to any request for information from an individual.² Access to information may be granted only if that information is contained within existing documents.³

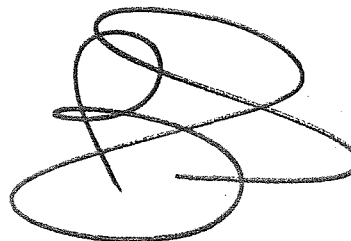
We therefore refer to your alternative request for access to "the individual files related to all access to documents requests received in the calendar years 2011 and 2012 (i.e. the administrative correspondence providing insights to (a)-(l) above)."

OLAF is mindful of its obligations under Regulation (EC) No 1049/2001. Nevertheless, in view of the large number of documents possibly covered by your application, OLAF is not in a position to identify all the requested documents, to assess their content in the light of the applicable rules, and where access is granted to provide them in the requested format within the regulatory period of 15 working days.

For those reasons, we would like to propose, with regard to Article 6(3) of Regulation (EC) No 1049/2001, to meet the representatives of your organisations on an informal basis in order to discuss the categories of documents requested and the feasible timeframe for their disclosure.

We hope you will accept our proposal.

Yours sincerely,



Beatriz SANZ REDRADO

² Case T-264/04 *WWF European Policy Programme v Council*, p. 76.

³ See Case C-353/99 *P Council v Hautala*, p. 23; Case T-264/04 *WWF European Policy Programme v Council*, p. 76.