

Directorate D: General Affairs

Director

Mr Maximilian HENNING

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4º centro
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Spain

Email: ask+request-10760-113ba01b@asktheeu.org

Via email only

Brussels

Subject: Your application for public access to documents Ares(2022)1539190

Dear Mr Henning,

We refer to your application for public access to documents Regulation (EC) No 1049/2001¹, dated 23 February 2022, registered under reference number Ares(2022)1539190.

You have requested public access to the following documents:

"A list of all investigations OLAF has conducted against companies contracted by the European Union for providing security services, for example for EU delegations abroad or as part of the Common Security and Defence Policy, between 2015 and 2021."

We regret to inform you that OLAF was not able to identify any documents that would correspond to the description given in your application. OLAF does not hold such a "list of investigations".

In this context, I would like to point out that the question regarding the possible status of information stored in databases as a document within the meaning of Regulation (EC) No 1049/2001 has already been subject to an assessment by the General Court, which in its ruling in Case [T-214/13](#) established that 'in the event of an application for access designed to have the Commission carry out a search of one or more of its databases using search criteria specified by the applicant, the Commission is obliged, subject to the possible application of Article 4 of Regulation (EC) No 1049/2001, to accede to that request, if the requisite search can be carried out using the search tools which it has available for the database in question'².

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. Official Journal L 145 , 31/05/2001 P. 0043 - 0048

² Judgment of the General Court of 2 July 2015, *Typke v European Commission*, T-214/13, EU:T:2015:448, paragraph 56.



With this judgement, the General Court confirmed the previous judgment in the *Dufour* case, where the Court stated that '*anything that can be extracted from a database by means of a normal or routine search may be the subject of an application for access*'³.

Furthermore, I would like to bring to your attention the most recent judgement in case C-491/15P, where the Court of Justice took the position that the routine character of an operation which determines whether information extracted from a database is a document, is determined by whether the operation has been made available to final users for general use⁴.

The information requested by you is stored in the OLAF's database known as OCM, which is used for case and document management and supports the activity of OLAF in all aspects of investigative work. In this sense, each investigation and so each file containing each registered document is independent one from the other. As a result, the information requested by you, if it exist, would be located in different documents, registered in different files of different investigations carried out by different investigators independently. In addition, each document is registered in a way that is useful for the investigator in charge, but not necessarily for other searching purposes.

For all these reasons, the data range concerned can therefore not be extracted from the OCM by means of a routine search operation using the search tools available.

For these reasons, the information requested is not included in any existing document.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that no such documents, corresponding to the description given in your application, are held by OLAF, we are not in a position to fulfil your request.

In accordance with Article 7(2) of Regulation (EC) No 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 Ville ITÄLÄ
Director General OLAF
European Commission
Rue Joseph II, 30
B-1049 BRUXELLES

or by email to: OLAF-FM-D2@ec.europa.eu

Your attention is drawn to the privacy notice below.

Yours sincerely,

³ Judgment of the General Court of 22 October 2011, *Dufour v European Central Bank*, T-436/09, EU:T:2011:634, paragraph 153.

⁴ Judgment of the Court of Justice of 11 January 2017, *Typke v European Commission*, C-491/15P, EU:C:2017:5, paragraph 36.

Beatriz SANZ REDRADO.

Privacy notice

Pursuant to Articles 15 and 16 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by Union Institutions, bodies, offices and agencies and of 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 and Commission Decision 2001/937/EC.

The categories of your personal data being processed are identification and contact data 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, and third parties, within the meaning of Articles 4(4) and 3(b) of Regulation 1049/2001, and Article 5 of Commission Decision 2001/937/EC, have access to your personal data. Personal data that appear on the requested document may only be disclosed to the applicant following an assessment under Article 9(b) of Regulation (EU) 2018/1725. There is no automated decision process by OLAF concerning any data subject.

The retention period for public access to documents which do not concern OLAF investigations is a maximum of 10 years.

You have the right to request access to your personal data, rectification or erasure of the data, or restriction of their processing. Any request to exercise one of those rights should be directed to the Controller (OLAF-FMB-DATA-PROTECTION@ec.europa.eu). You may contact the Data Protection Officer of OLAF (OLAF-FMB-DPO@ec.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

You have the right to have recourse to the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by OLAF.

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