



EUROPEAN ANTI-FRAUD OFFICE

Unit 01 - Selection, Investigation
and Operations Review

Ms Roelie POST

The Head of Unit

Via email: roelie.post@gmail.com

Brussels

olaf.d.2(2021)15976

Subject: Your e-mail of 24 January 2021

Case No OF/2014/1007 and OF/2016/0585 [LC/2021/0072]

Dear Ms POST,

I refer to your e-mail dated 24 January 2021, registered in OLAF under reference OCM(2021)9369, by which you ask on the basis of which information OLAF was/is of the view that you are not a whistle-blower.

While you did not mention to which specific case you refer to, OLAF has identified several cases in which you or a third person had provided information on alleged irregularities and/or misconduct to OLAF. You were the initial source providing information to OLAF in case OF/2016/0585. In the other cases, which concern facts related to the ones you have also reported, the initial source of information was the said third person, though you have also been in contact with OLAF (i.e. case OF/2014/1007).

In reply to your question, please allow me to clarify the following, considering the legal framework applicable to the facts.

Under the current applicable rules, for its own administrative and procedural purposes, OLAF makes, at the selection stage, an assessment whether someone is to be treated as a potential whistle-blower. This assessment may change in the course of the case, where new facts become known.

When a request for protection against retaliation is made by an EU staff member claiming to be a whistle-blower, it is for the Appointing Authority of that person (and not for OLAF) to decide on whether to grant protection as well as on the form and the modalities thereof.

Before taking its decision, the Appointing Authority liaises with OLAF and asks it to provide it with an assessment of the disclosure made by the EU staff member.

However, this does not mean that OLAF grants a "whistle-blower status", but only that OLAF assesses whether the disclosure made is in line with the criteria laid down in relevant rules on whistle-blowing, in particular Article 22a of the Staff Regulations and the Communication from Vice-President Šefčovič to the Commission on Guidelines on Whistleblowing from 6



December 2012 (SEC(2012) 679 final). The Appointing Authority is the one who, taking into account all the information at its disposal (including OLAF's assessment), makes the final decision with regard to the status of the person, for the purpose of awarding protection against retaliation.

Therefore, in order for a protection against retaliation to be considered, a disclosing EU staff member should address a request to the Human Resources Department of his/her institution (for the Commission, DG HR). This service will then decide whether measures of protection against retaliation need to be put in place.

Please also note that the assessment made by OLAF as to whether a staff member shall be considered as fulfilling the conditions foreseen to be considered a whistle-blower is part of the selection file.

In case OF/2016/0585, where you have put forward allegations of harassment against you by Commission staff (mainly, DG HR and/or the Medical Service), you have been informed, on 25 July 2016, that OLAF had not considered you as a whistle-blower, as there were other dedicated and appropriate channels to complain against decisions taken by DG HR or the Medical Service. In another letter of 9 September 2016, the then Head of Unit 0.1 also informed you that the status of whistle-blower conferring protection against retaliation could only be granted by DG HR, when appropriate.

OLAF's assessment cannot be disclosed to you, as Regulation (EU, Euratom) No 883/2013 does not grant the sources of information to OLAF a specific right or an authorisation for access to the file or part of the file concerning them. Moreover, all the information collected by OLAF is subject to strict rules of confidentiality and protection of personal data as stipulated in Article 10 of that Regulation.

Finally, I also note that the European Ombudsman has inquired into the Commission's alleged failure to protect you as a whistle-blower. The Ombudsman found that the Commission had treated you fairly and in accordance with the applicable rules. The Ombudsman closed the inquiry with the finding that there had not been any maladministration by the European Commission.

I hope you find the above explanations helpful.

Your attention is drawn to the privacy statement on the next page.

Yours sincerely,

Signed Electronically

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