



**P. Nikiforos Diamandouros**  
European Ombudsman

Mr Olivier HOEDEMANN  
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Strasbourg, 05-03-2013

Complaint 257/2013/OV

Dear Mr Hoedeman,

On 31 January 2013, you submitted a complaint to the European Ombudsman against the European Commission concerning the way the Commission dealt with your request of 26 October 2012 for public access to documents concerning the resignation of Commissioner JohnDalli.

I have asked the Commission to submit an opinion on the following allegations and claim.

**Allegations:**

**1.** The Commission has failed to identify in its files all documents relevant to the complainant's request for public access of 26 October 2012.

In support of this allegation, the complainant argues that the Commission has, among other documents, not identified as being covered by its request the following documents: the letter of Swedish Match of 14 May 2012 to the Commission and the Secretary-General's reply of 30 May 2012, as well as Commission documents referring to the contacts between Mr Z and the tobacco industry.

**2.** The Commission wrongly refused access to i) two letters from Commissioner Dalli to President Barroso of 27 July and 24 October 2012, ii) two (undated) Commission notes for the file concerning meetings between President Barroso and Commissioner Dalli, and iii) other documents covered by the complainant's request but not identified by the Commission.



**Claim:**

The Commission should grant access to the requested documents.

In accordance with Articles 2(2) and 3(1) of the Statute of the European Ombudsman, I informed the President of the Commission of your complaint and invited him to submit an opinion on the allegations and claim included in my inquiry by 31 May 2013.

I also consider that, in order to examine your allegations and claim, it would be appropriate for my Office to inspect i) the four documents to which access has been refused, as well as ii) the Commission's file relating to resignation of Commissioner Dalli.

I therefore asked the Commission to allow my services to inspect the relevant files. A copy of the inspection report will be forwarded to you. I would also like to underline that, in accordance with Articles 5(2), 13(3) and 14(2) of the Implementing Provisions of the European Ombudsman, the Ombudsman's inspection will not result in you or any other person obtaining access to any documents which the Commission identifies as confidential during the inspection, or to any information contained in such documents.

As soon as I receive the Commission's opinion, I will forward it to you with an invitation to make observations. Any observations you wish to make should be submitted to my office within one month of receiving the opinion.

Once my office receives your observations, or the deadline has passed, the Legal Officer responsible for your case, Mr Olivier Verheecke, tel: + 32 2 284 20 03, will then examine your file. Mr Verheecke is a member of Complaints and Inquiries Unit 2, headed by Mr Fergal Ó Regan, which is part of Directorate A. I will inform you if I need to inquire further into your complaint before making a decision on it.

Every effort is made to deal with cases as quickly as possible. I try to reach a preliminary conclusion in an inquiry on a complaint within one year of opening it.

As regards your request for access in so far as it concerns the OLAF report, I note that, when you submitted your complaint to the European Ombudsman, you had not yet received OLAF's reply to your confirmatory application. I would therefore like to inform you that you have the possibility to submit a separate complaint to the Ombudsman against OLAF. If you decide to submit such a complaint, you should explain why you consider that OLAF's reply to your confirmatory application is not adequate.

Yours sincerely,

P. Nikiforos Diamandouros