



**P. Nikiforos Diamandouros**  
European Ombudsman

Magdalena Anghel  
Romanian Public Television

magdalena.anghel@tvr.ro

Strasbourg, **01-06-2012**

Complaint 2515/2011/VIK

Dear Ms Anghel,

I refer to your letter of 14 May 2012 by means of which you requested access "*to the opinion sent by OLAF in case 2515/2011/VIK*".

Your request covers a document, which was submitted to me on 14 March 2012. This document contains four attachments.

Please find enclosed a copy of the document you requested together with its annexes, to which I am granting you access pursuant to Article 14 of the Implementing Provisions of the European Ombudsman.

Please note that the opinion contains certain personal data, such as the names of (i) Members of the European Parliament and (ii) officials, as well as (iii) the complainant's name and personal address.

In line with Article 4(1)(b) of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents, as interpreted in the case-law of the Court of Justice, and Article 5 of Regulation 45/2001 concerning the protection of individuals with regard to processing of personal data, I have blanked out the personal data mentioned in points (i) and (ii) above, with the exception of the names of the OLAF's Director and of the then President of Parliament.

As regards point (iii) above, I have blanked out the complainant's personal address. Concerning the complainant's name, Article 5(d) of Regulation 45/2001 stipulates that a data subject's unambiguous consent is required before his or her data may be disclosed. My services have therefore been in contact with the complainant in order to obtain his consent for his name to be released. The complainant consented to his name being disclosed in so far



as OLAF's opinion is concerned. As regards the annexes to that opinion, he did not consent to disclosure. Accordingly, I have blanked out the complainant's name in the annexes.

Yours sincerely,

P. Nikiforos Diamandouros

Enclosure:

- Copy of OLAF's opinion in complaint 2515/2011/VIK

Ares (2012)302390

THOR



14 MARS 2012

N: 6875

EUROPEAN COMMISSION

**European Anti-Fraud Office**  
The Director General

**Mr P. Nikiforos Diamandouros**  
The European Ombudsman  
B.P. 403-1  
Avenue du Président Robert  
Schuman  
F 67001 Strasbourg Cedex  
France

Brussels,  
SS/pw/D/2012/

**Subject: Complaint 2515/2011/VIK**

**Ref.: Letter dated 31 January 2012**

Dear Mr Diamandouros,

I refer to your letter dated 31 January 2012, received by OLAF on 3 February 2012, in which you asked OLAF to provide an opinion concerning some allegations submitted by Mr Adrian Severin by 30 April 2012.

Please find herewith OLAF's comments.

My colleagues and I are at your disposal for any further information you may require.

Yours sincerely

13 MARS 2012

  
GIOVANNI KESSLER

Enclosed: Comments

cc: [REDACTED] (Cabinet Šemeta)

**OLAF's comments on a request for information from the European Ombudsman  
- Complaint by Mr Adrian Severin 2515/2011/VIK —**

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**1. FACTUAL BACKGROUND**

On 20 March 2011, the British newspaper "The Sunday Times" published an article in which it was stated that MEP SEVERIN had accepted to join the advisory board of a lobbying company ("Taylors Jones"), earning 100.000 € a year and that MEP SEVERIN had invoiced the lobbying company 12.000 € for his involvement in the tabling of an amendment to Directive 94/19/E on an Investor Compensation Scheme in the interest of a client of the lobbying company.

On 21 March OLAF opened an internal investigation. On 22 March OLAF informed the President of the European Parliament on the opening of the investigation.

OLAF undertook two attempts to search MEP SEVERIN's office (on 22 March 2011 and on 30 March 2011). The attempts failed due to the non-cooperation of the European Parliament.

MEP SEVERIN was informed by letter dated 1 April 2011 that he was under investigation as party concerned.

On 23 June 2011 a meeting with MEP SEVERIN took place at OLAF premises and at the request of MEP SEVERIN. On the occasion of this meeting MEP SEVERIN handed over to the investigators a set of relevant documents.

By email dated 26 June 2011, MEP SEVERIN forwarded complementing documents and information to the investigators.

On 8 July 2011, MEP SEVERIN was invited to an interview on 10 August 2011 at OLAF premises. On 10 August 2011, MEP SEVERIN was interviewed and enabled to express his view on all facts which concern him.

On 18 August 2011, an analysis note of the written information provided by MEP SEVERIN on 23 and 26 June 2011 was registered.

On 4 October 2011, the Final Case Report was introduced by the investigator in charge of the Board module (an OLAF's system).

On 22 October 2011 the Board meeting took place.

On 18 November 2011, OLAF closed its investigation. OLAF was not able to acquire forensic electronic data in the European Parliament or to conduct interviews with witnesses due to the European Parliament refusal to provide the necessary support.

The case closure (with the relevant conclusions) was notified to the President of the European Parliament by letter dated 11 January 2012 and to MEP SEVERIN by letter dated 16 January 2012. OLAF decided to pass on the Final Case Report to the Romanian judicial authorities with recommendation of judicial action and also to the European Parliament to consider taking a disciplinary measures according to its Rules of Procedure.

## **2. THE COMPLAINT**

The complainant makes the following allegations:

- (1) OLAF conducted its investigation concerning the complainant in a discriminatory manner because it concluded another investigation regarding another MEP quickly, whereas its investigation concerning the complaint is still ongoing.
- (2) OLAF failed to conclude its investigation concerning the complaint within a reasonable time.
- (3) OLAF lacked the necessary competence to investigate.

The complainant claims that:

- (1) OLAF should take urgent measures to close its investigation concerning the complaint and inform him accordingly.
- (2) OLAF's competences to investigate cases in which no EU funds are involved should be clarified.
- (3) OLAF should adopt appropriate rules for urgent procedures, allowing it to rapidly draw conclusions in publicly sensitive cases which may affect the image and reputation of the European Parliament or of a MEP.

The European Ombudsman has declared inadmissible allegation 3) and claims 2) and 3).

## **3. OLAF'S COMMENTS ON THE COMPLAINANT'S ALLEGATIONS AND CLAIMS**

As the European Ombudsman has declared inadmissible the third allegation and the second and third claims, OLAF comments concern only the first and second allegations and the first claim.

### **3.1 ALLEGED DISCRIMINATION IN THE CONDUCTION OF THE INVESTIGATION**

In the OLAF case OF/20011/0237 (opening: 21/03/2011 and 28/03/2011), 4 MEPs were under investigation: [REDACTED] (investigation closed on 27 June 2011), Mr SEVERIN (investigation closed on 18 November 2011), [REDACTED] (investigation closed on 22 December 2011) and [REDACTED] (investigation ongoing).

Therefore, there is no element concerning the duration of investigation on MEP SEVERIN that may be considered a discriminatory one compared to the other three.

Moreover, it goes without saying that the positions of the 4 MEPs have to be assessed on their own merit and that reaching the conclusions may require different periods of time for each person concerned.

### **3.2 ALLEGED FAILURE TO CONCLUDE THE INVESTIGATION WITHIN A REASONABLE TIME**

The OLAF's investigation concerning MEP SEVERIN was opened on 21 March 2011 and was closed on 18 November 2011. Its duration was, therefore, less than 8 months.

According to Article 11.7 of Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), the duration of an investigation closed within 9 months does not need to be justified with special reasons.

Moreover the duration of less than 8 months includes also the summer holiday period.

The investigation has, therefore, been conducted within a reasonable time.

### **3.3 CLAIM**

The claim concerning the taking, by OLAF, of urgent measures to close its investigation on the complainant is without object because the investigation is already closed.

### **4. CONCLUSION**

The complainant had failed to substantiate his allegations and his claim.

#### List of annexes:

- Annex I* — OLAF's information on the opening of the investigation
- Annex II* — Notification to interested party on the opening of the investigation
- Annex III* — Notification to the President of the European Parliament of case closure
- Annex IV* — Notification to the interested party of case closure



EUROPEAN COMMISSION  
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

The Director-General

D/002092 22.03.11

Brussels,  
CK/jb D (2011/A1/2199)

Mr. Jerzy BUZEK  
President of the European  
Parliament  
Building PHS/11 B011  
60 Rue Wiertz  
B-1047 BRUSSELS

*OLAF Operations*

**NOTE TO THE PRESIDENT OF THE EUROPEAN PARLIAMENT**

**Subject: Opening of an internal investigation**

**Internal Case Identification**

CMS N°	OF/2011/237
Title	MEP Offer
Date of opening decision	21 March 2011

**OLAF Staff**

Investigator in charge	[REDACTED]
Investigator associated	[REDACTED]
Head of Unit in charge	[REDACTED]

**Case content**

Allegation (summary of facts)	Three MEP are alleged to have accepted bribes to abuse for influencing the legislative process to promote the interests of private companies. The MEP had been approached by investigative journalists of the newspaper Sunday Times who pretended to be lobbyists of the said companies.
MEP concerned	[REDACTED]

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Tel: (32-2) 299.11.11.  
Office : J-30, 5-044 - Telephone direct line : (+32 2) 29 90035 - Fax : (+32 2) 29 66998

1/2

00563920

Source of information	Press article of the Sunday Times
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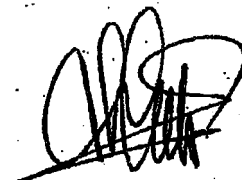
**Information of the interested party**

Will be done shortly
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**Information Restrictions**

Person concerns informed of investigation?	No please do yet not inform them because doing so would be harmful to the investigation. OLAF will inform them shortly
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Your attention is drawn to the statement concerning the transfer of personal data below.



P/ Giovanni KESSLER



Director A

**Statement concerning the transfer of personal data**

The transfer of personal data to you falls within Article 7 of Regulation (EC) 45/2001 on the protection of personal data by the Community institutions. Accordingly, as the controller of the personal data hereby transmitted, you are responsible for ensuring that they are used only for the purpose for which they are transmitted. Processing in a way incompatible with that purpose, such as transferring it to another recipient where this is not necessary or legally required on important public interest grounds, is contrary to the conditions upon which this data has been transferred to you. Moreover, according to article 4(2) of Regulation 45/2001, you are required as the Controller of the personal data concerned to ensure that all obligations of the Controller are complied with.





EUROPEAN COMMISSION  
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

Investigations & Operations  
The Director

B/ 02356 01.04.11

Brussels,  
CK/jb D(2011/A1/2443)

By registered mail



OLAF Operations

Subject: Notification to interested party, internal investigation

CMS: OF/2011/237 (Please include this number in all correspondence)



On 21 March 2011 OLAF opened an internal investigation. As part of this matter, you are under investigation as party concerned. The allegations under investigation relating to you are that you have accepted remuneration from a private company to introduce certain amendments of draft legislation into the legislative process.

In accordance with Article 4 paragraphs 6(a) and 6(b) of Regulation 1073/99 and Article 1 of the European Parliament decision covering the terms and conditions for internal investigations in relation the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests (Annex XII Rules of Procedures of the European Parliament) you have a duty to cooperate fully with OLAF, to lend any assistance required to the investigation, and to supply OLAF with all useful information and explanations unless this infringes your right to avoid self incrimination. You may produce documents or provide oral evidence relevant to the matters under investigation.

In due course, you will receive an invitation for an interview, which will provide you with the opportunity to express your views on all the facts which concern you.

Your attention is drawn to the privacy statement on page 2.

Yours sincerely,

00409013

00514057



EUROPEAN COMMISSION  
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

The Director-General

Brussels,  
KC/KK D 2012/A1/00066

Mr. Jerzy Buzek  
President of the European  
Parliament  
Building PHS/11 B011  
Rue Wiertz 60  
B-1047 Brussels

*OLAF Operations*

**NOTE TO THE ATTENTION OF  
MR. JERZY BUZEK,  
PRESIDENT OF THE EUROPEAN PARLIAMENT**

**Subject: notification of case-closure**

**CMS Ref.: OF/2011/0237**

**Date on which the investigation was opened: 21/03/2011 and 28/03/2011**

**Members of Parliament under investigation:** [REDACTED]

I hereby inform you that OLAF has closed the above mentioned investigation concerning the mentioned Members or former Members of Parliament.

With regard to [REDACTED] the case was closed on 27 June 2011. OLAF concluded that there was no evidence found establishing an infringement.

With regard to [REDACTED] the case was closed on 18 November 2011. OLAF concluded that [REDACTED] did not act independently when he supported an amendment to European legislation in the legislative process in return for payment. It was therefore decided to pass on the matter to the Romanian judicial authorities with recommendation of judicial action

and also to the European Parliament to consider a penalty according to its Rules of Procedure<sup>1</sup>.

With regard to [REDACTED] the case was closed on 22 December 2011. OLAF concluded that there was no evidence found establishing an infringement. Given that the Slovenian judicial authorities are conducting an ongoing investigation into the matter, OLAF will send to them the Final Case Report for information.

It must be noted that OLAF has based its analysis on information provided by "The Sunday Times" and on information provided by the Members of Parliament under investigation who were all fully cooperating. OLAF was not able to acquire forensic electronic data in the European Parliament or to conduct interviews with witnesses due to the European Parliament's refusal to provide the necessary support. OLAF was, therefore, not in the position to conduct a comprehensive administrative investigation and had to draw its conclusion based on limited information.

Enclosed you will find a copy of the relevant Final Case Reports.

The investigation concerning the former [REDACTED] is ongoing.

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

  
Giovanni KESSLER

**Statement concerning the transfer of personal data**

The transfer of personal data to you falls within Article 7 of Regulation (EC) 45/2001 on the protection of personal data by the Community institutions. Accordingly, as the controller of the personal data hereby transmitted, you are responsible for ensuring that they are used only for the purpose for which they are transmitted. Processing in a way incompatible with that purpose, such as transferring it to another recipient where this is not necessary or legally required on important public interest grounds, is contrary to the conditions upon which this data has been transferred to you. Moreover, according to article 4(2) of Regulation 45/2001, you are required as the Controller of the personal data concerned to ensure that all obligations of the Controller are complied with.

Encl.: 3 Final Case Reports concerning [REDACTED]

<sup>1</sup> Title VI, Chapter 4, rule 153: penalties: "1. In exceptionally serious cases of disorder or disruption of Parliament in violation of the principles laid down in Rule 9, the President, after hearing the Member concerned, shall adopt a reasoned decision laying down the appropriate penalty, which he shall notify to the Member concerned and to the presiding officers of the bodies, committees and delegations on which the Member serves, before announcing it to the Plenary".



EUROPEAN COMMISSION  
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

The Director General

Brussels,  
CK/dm D (2012/A1/111)



Via Registered Mail

*OLAF Operations*

**Subject:** Notification of case closure

**CMS:** OF/2011/0237 (Please include this number in all correspondence)



On 21 March 2011, OLAF opened an internal investigation. As part of this matter, you were informed by letter dated 1 April 2011 that you were under investigation as party concerned. The allegations under investigation relating to you are that you may have accepted remuneration from a private company to introduce/support certain amendments of draft legislation into the legislative process.

OLAF has closed its investigation on 18 November 2011 and concluded you did not act independently when you supported an amendment to European legislation in the legislative process in the expectation to receive payment. It was therefore decided to pass on the Final Case Report to the Romanian judicial authorities with recommendation of judicial action and also to the European Parliament to consider a penalty according to its Rules of Procedure<sup>1</sup>.

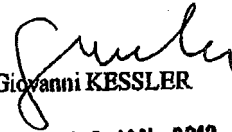
It must be noted that OLAF has based its analysis on information provided by "The Sunday Times" and on information provided by you.

<sup>1</sup> Title VI, Chapter 4, rule 153: penalties: "1. In exceptionally serious cases of disorder or disruption of Parliament in violation of the principles laid down in Rule 9, the President, after hearing the Member concerned, shall adopt a reasoned decision laying down the appropriate penalty, which he shall notify to the Member concerned and to the presiding officers of the bodies, committees and delegations on which the Member serves, before announcing it to the Plenary".

Your full cooperation is hereby acknowledged. OLAF was not able to acquire forensic electronic data in the European Parliament or to conduct interviews with witnesses due to the European Parliament refusal to provide the necessary support. OLAF, therefore, was not in the position to conduct a comprehensive administrative investigation and had to draw its conclusion based on limited information.

Your attention is drawn to the privacy statement below.

Yours sincerely,

  
Giovanni KESSLER

16 JAN. 2012

**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 will be 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 20 years. You have the right to access the personal data we hold regarding you and to correct and complete them. On request, you may be sent your own personal data and correct or complete them. Any such request should be addressed to the Controller (OLAF-FMB-Data-Protection@eo.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.