



EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE (OLAF)

The Director-General

V 0 1 1 4 7 2 1 0. 11. 08

Brussels,
SSPA/es I(2008) 12431

NOTE TO ALL OLAF STAFF MEMBERS

Subject: Reporting of information on possible illegal activities or serious professional misconduct within OLAF

- 1) Following my note n° D/002035 of 18.02.2003 and the changes subsequently introduced into the Staff Regulations, I would like to remind all staff members of the Office about the general obligations of all Commission staff to report on possible illegal activities or serious violations of professional duties.

These requirements are familiar to most OLAF staff because they provide us with a part of our daily workload. However, we must remember that these requirements are just as binding on OLAF staff as on any other Commission staff.

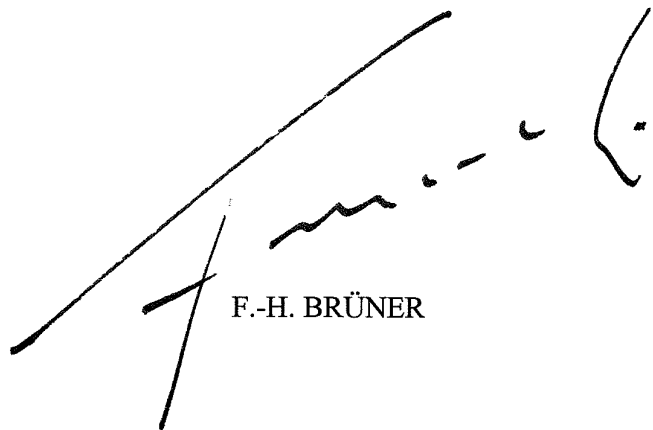
The Staff Regulations of officials of the European Communities as well as the Conditions of Employment of other servants of the European Communities (RAA) provide that any official or other servant who becomes aware of facts which give rise to a presumption of the existence of a possible illegal activity, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Communities, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General or OLAF (Article 22a of the Staff Regulations and Article 11 of the RAA)^{1, 2}.

Any official or other servant is entitled to further disclose such information to the President of the Commission, the Court of Auditors, the Council or the European Parliament, or to the European Ombudsman, subject to the conditions set out in Article 22b^{1, 2}.

¹ See OJ N° L 124, 27.4.2004, p. 12-13.

² Text in annex.

- 2) Therefore these rules are equally applicable within OLAF. This means that:
- a) Pursuant to Article 22 of the Staff Regulations and to Article 11 of the RAA, OLAF staff members are obliged to report to one of their OLAF hierarchical superiors or, if they consider this to be appropriate, directly to the Secretary-General of the Commission any factual information and evidence on possible illegal activities or serious professional misconduct within OLAF of which they become aware;
 - b) to take account of the particular position of staff in OLAF wishing to report possible wrongdoing within OLAF, it has been agreed with the Supervisory Committee that such matters may be reported to the President of the OLAF Supervisory Committee; in such a case, it will be considered that Article 22a of the Staff Regulations and Article 11 of the RAA have been complied with;
 - c) OLAF staff members are entitled to further disclose such information outside the Commission or OLAF pursuant to Article 22b of the Staff Regulations and Article 11 of the RAA.



F.-H. BRÜNER

Annex: Articles 22a and 22b of the Staff Regulations.

ANNEX

Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Communities, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.

Information mentioned in the first subparagraph shall be given in writing.

This paragraph shall also apply in the event of serious failure to comply with a similar obligation on the part of a Member of an institution or any other person in the service of or carrying out work for an institution.

2. Any official receiving the information referred to in paragraph 1 shall without delay transmit to OLAF any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 22b

1. An official who further discloses information as defined in Article 22a to the President of the Commission or of the Court of Auditors or of the Council or of the European Parliament, or to the European Ombudsman, shall not suffer any prejudicial effects on the part of the institution to which he belongs provided that both of the following conditions are met:

(a) the official honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and

(b) the official has previously disclosed the same information to OLAF or to his own institution and has allowed OLAF or that institution the period of time set by the Office or the institution, given the complexity of the case, to take appropriate action. The official shall be duly informed of that period of time within 60 days.

2. The period referred to in paragraph 1 shall not apply where the official can demonstrate that it is unreasonable having regard to all the circumstances of the case.

3. Paragraphs 1 and 2 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.'