

2. Second plea in law, alleging errors of law and manifest error of assessment resulting in the misapplication of the protection of legal advice exemption (second indent of Article 4(2) of Regulation 1049/2001), because disclosure would not seriously undermine the protection of legal advice.
 - The Council failed to demonstrate that the requested document contains specific operational legal advice. Furthermore, the Council did not take into account relevant legal provisions and principles, as established in law and case-law, that the legislative process of the EU must be open and that a legal analysis of the legal service of an EU institution containing important general legal analyses relating to a legislative process for the adoption or revision of EU legislation should (when requested under Regulation 1049/2001) be disclosed.
3. Third plea in law, alleging errors of law and manifest error of assessment resulting in the misapplication of the decision-making process exemption (first subparagraph of Article 4(3) of Regulation 1049/2001) and the protection of legal advice exemption (second indent of Article 4(2) of Regulation 1049/2001), because the contested decision failed to recognise and grant access on the basis of an overriding public interest.
 - The Council failed to recognise and grant access on the basis of an overriding public interest. In particular, an overriding public interest exists as the revision of Regulation 1367/2006 is of very significant importance for the future level of access to justice in environmental matters and the contested decision affects the applicant in a particular and significant way in exercising her task as researcher and academic which is serving a public interest.
4. Fourth plea in law, alleging errors of law and manifest error of assessment resulting in the misapplication of the protection of international relations exception (third indent of Article 4(1)(a) of Regulation 1049/2001).
 - The Council failed to meet the high threshold set by the legal test to validly invoke the exception contained in Article 4(1)(a), third indent, of Regulation 1049/2001, namely that disclosure of a document should specifically and actually undermine the protection of international relations and that the risk of the interest being undermined must be reasonably foreseeable and not purely hypothetical.
5. Fifth plea in law, in subsidiary order, alleging errors of law and manifest error of assessment resulting in the misapplication of the obligation to provide partial access to documents (Article 4(6) Regulation 1049/2001).
 - The applicant argues, finally, that the Council did not examine and grant partial access to the requisite legal standard. It has misapplied the legal test which requires the Council to assess whether every part of the requested document is covered by (any of) the exceptions invoked.

(¹) Editorial note: the requested document relates to the decision-making process concerning the proposed revision of Regulation (EC) No 1367/2006 Regulation of the European Parliament and of the Council of 6 September 2006 on the application of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community Institutions and Bodies (OJ 2006 L 264, p. 13).

(²) OJ 2001 L 145, p. 43.

Action brought on 22 October 2021 — AL v Commission and OLAF

(Case T-692/21)

(2022/C 37/51)

Language of the case: English

Parties

Applicant: AL (represented by: R. Rata, lawyer)

Defendants: European Commission, European Anti-Fraud Office

Form of order sought

The applicant claims that the Court should:

- annul (i) the OLAF decision OCM (2021)22007 dated 22 July 2021; (ii) the OLAF decision OCM (2021)22008 dated 22 July 2021; (iii) the Commission decision (ref. Ares(2021)20233749) dated 22 March 2021 and (iv) the Commission decision (ref. Ares(2021)1610971) dated 3 March 2021;
- order the defendants to pay (i) EUR 1 127,66 retained in the absence of any PMO individual administrative decision in respect of the recovery; (ii) EUR 9 250,05 retained for May, June, July, August, and September 2021 and (iii) EUR 1 *ex aequo et bono* to compensate for the non-material harm suffered by the applicant as a consequence of the illegal conduct of the OLAF investigation OF/2016/0928/A1 which finally led to the removal from post of the applicant;
- order the defendants to bear their own costs and to pay the costs incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging the violation by OLAF of Article 90(2) and of Article 90a of the Staff Regulations of Officials of the European Union, due to the rejection of the applicant's complaint dated 23 March 2021 as inadmissible based on consistent EU case-law according to which OLAF's final report and recommendations do not constitute acts producing legal effects.
2. Second plea in law, alleging the violation by OLAF of Article 90(2) and Article 90a of the aforesaid Staff Regulations, due to the rejection of the applicant's complaint dated 23 April 2021 as inadmissible. The applicant alleges that the complaint should have been declared admissible by OLAF because OLAF is a service of the Commission, therefore part of the Commission, and should have assessed the applicant's complaint.
3. Third plea in law, alleging the violation by the Commission of Article 90(2) of the aforesaid Staff Regulations in so far as the Commission issued an implicit rejection decision in relation to the applicant's complaint directed against the Commission's decision of 22 March 2021 (ref. ARES(2021)2023374) which confirmed the Commission's decision of 3 March 2021 (ref. ARES(2021)1610971).

Action brought on 25 October 2021 — NJ v Commission

(Case T-693/21)

(2022/C 37/52)

Language of the case: English

Parties

Applicant: NJ (represented by: C. Maczkovics, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare, in accordance with Article 265 TFEU, that the Commission unlawfully failed to act on its complaint of 19 April 2018 on State aid measure SA.50952(2018FC);
- order the Commission to take a position on the complaint registered under number SA.50952(2018FC) without delay;