

OLAF accepts Ombudsman's proposal to release documents on customs investigation

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The European Ombudsman, **P. Nikiforos Diamandouros**, has helped settle a dispute about access to documents between the European Anti-Fraud-Office, OLAF, and two Belgian companies. On the basis of a request made by OLAF in 2002, the Belgian customs authorities investigated whether the two companies had used false Spanish certificates to import bananas from Latin America at a preferential tariff. The investigation is still ongoing.

In order to clarify the facts and to potentially prepare an appeal, the companies asked for access to relevant documents held by OLAF. OLAF, however, refused to release most of the documents. The Ombudsman inspected the documents concerned and made a friendly solution proposal, in which he asked OLAF to reconsider its position. OLAF accepted the proposal and released all the documents.

Refused access to documents on allegedly falsified banana import certificates

In 2000, OLAF opened an inquiry concerning allegedly false Spanish certificates for the import of bananas. In 2002, on the basis of a request made by OLAF, the Belgian customs authorities opened an investigation involving a Belgian fruit importer and a Belgian company providing services as a customs agent. The investigation is still ongoing.

In order to clarify the facts and to potentially prepare an appeal, the Belgian companies asked OLAF for access to a long list of documents concerning its investigation into the alleged falsification. OLAF granted access to some of the documents. However, it refused access to the majority of them, arguing that their release would undermine the protection of OLAF's investigation and of court proceedings in several Member States.

Both companies were dissatisfied with OLAF's response and lodged a complaint with the Ombudsman in 2005. The Ombudsman inspected the relevant files and concluded that OLAF had incorrectly refused access to a whole series of documents. He, therefore, made a friendly solution proposal, asking OLAF to reconsider its position.

OLAF accepted the proposal and released a total of 168 pages to the two Belgian companies. They thanked the Ombudsman for having obtained this result.



The Ombudsman's decision is available at:

<http://www.ombudsman.europa.eu/cases/decision.faces/en/4506/html.bookmark> [Link]