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Dalli v Commission

European Court of Justice judgment does not address flawed OLAF inquiry

Commenting on today's ruling by the European Court of Justice on the case brought by former European Commissioner John Dalli against the European Commission, Greens/EFA MEP **Bart Staes**, member of the Budgetary control committee, said:

"We regret that Dalli lost this case against the European Commission but we want to make very clear that the judgment says nothing about the flawed OLAF inquiry and the circumstances that led to this inquiry in the first place. While this ruling is bad news for Mr Dalli, it is dwarfed in importance by the fact that there are ongoing legal proceedings in Malta and that the Belgian authorities are still investigating OLAF's use of illegal methods such as phone tapping. Furthermore, the OLAF Supervisory Committee's latest annual report, which was recently presented to the European Parliament, gives further evidence of OLAF Director-General Kessler's contentious methods and behaviour. There is a strong political will in the European Parliament to gauge the full extent of this political scandal.

We are convinced that the pressure exerted by Barroso on Dalli during the meeting on October 16th was clear - 'resign or I will force you to' - and was based on an OLAF report that failed to produce any decisive evidence as regards the direct participation of John Dalli in an attempted trade of influence. The OLAF document that was leaked months after Mr Dalli's departure showed clearly that this inquiry was not done correctly in terms of all exculpatory and incriminatory elements and cannot therefore be dubbed impartial."

Greens/EFA MEP **José Bové**, member of the Agriculture committee, stated:

"I am not surprised by today's European Court of Justice judgment which was concerned only with establishing whether or not the former Commissioner John Dalli resigned or was sacked by former European Commission President Barroso on 16 October 2012. The legal proceedings were based on exchanges that were firstly face to face between two people and then in front of a handful of senior European Commission officials. At the hearing in Luxembourg, the witnesses unanimously corroborated Barroso's statements.

"The indisputable fact remains that Director-General Kessler should have consulted the OLAF Supervisory Committee for legal verification of his report. This report incriminated former Commissioner Dalli despite not being based on concrete facts. In addition to this, by sidelining the OLAF Surveillance Committee, Barroso did not respect the rules governing the functioning of the EU institutions. These rules were instead ignored and Barroso should have been aware of this. The OLAF Supervisory Committee's annual report (officially published April 2013) confirmed the accuracy of the accusations as formulated by the OLAF Supervisory Committee in their Opinion 2/2012 (1). These accusations focus on the way OLAF conducted its inquiry and pinpoint the use of certain questionable methods, a lack of respect for procedures and the absence of respect for fundamental human rights."

(1) This report analyses the dysfunction of OLAF and its Director-general Giovanni Kessler. Moreover, in Annex 2, the now leaked OLAF report reveals an unacceptable collusion between Swedish Match lobbyist Michel Petite and the Secretary General of the European Commission. One of the most revealing and important aspects of the leaked OLAF report can be found in Annex 2 in the statement of Mr Peyron, Senior Vice President and Legal Counsel of Swedish Match. He stated that when Swedish Match had collected the "evidence" on the proposal for a bribe for John Dalli, they first talked to Michel Petite (former head of the Legal Service of the European Commission and now consultant and lawyer for tobacco multinational Philip Morris), who then in turn communicated with Catherine Day, Secretary General of the Commission. Only after this communication, Swedish Match (that has a joint venture with Philip Morris) sent their allegations to Catherine Day. This indicates a clear and unacceptable collusion between the Commission administration and Swedish Match.

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José Bové

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