

# General Court Ruled on Necessary Protective Measures for Whistleblower in the EP

## News

Thomas Wahl

In a [judgment of 11 September 2024](#), the General Court (GC) strengthened the rights of whistleblowers who brought to light incidents within European institutions. The GC clarified the scope of protective measures to be provided by the institution.

### Background of the case

The case ([T-793/22, TU v Parliament](#)) concerns a parliamentary assistant (TU) who reported cases of harassment involving a Member of the European Parliament (MEP). He also reported financial irregularities allegedly committed by the same MEP to OLAF. The European Parliament (EP) reacted by transferring TU to another MEP, then, following alleged retaliation, he was discharged from his duties. However, his contract was not renewed. The EP also denied his request to extend his contract so that he can cooperate with the EP and with OLAF in the ongoing investigations.

TU challenged the decision not to renew his contract and the implied refusal to recognise his status as an informant and to adopt protective measures in addition to the measure discharging him from his duties. TU also sought compensation for the damage suffered.

### The General Court's decision: duties of the institution

First of all, the GC observes that the Parliament was not required to adopt a decision recognising that the applicant had the status of informant. The protection provided for in Art. 22a(3) of the Staff Regulations is granted, without any formalities, to officials who have provided information about facts which give rise to a presumption of the existence of illegal activity. Hence, it is simply by virtue of having provided that information that staff members must be considered as informants. The GC further stressed that this finding is, however, without prejudice to the need for the institution to respect the rights arising from the status of the person concerned as an informant.

In this context, the GC establish the principal duties for the institution vis-à-vis the informant in accordance with the Staff Regulation, including:

- The informant must be informed of the action taken on his reports;
- The institution must demonstrate that it fulfilled its duty to protect the informant by adopting adequate measures so that he does not suffer harm or further retaliation;

### AUTHOR

**Thomas Wahl**

Senior Researcher  
Max Planck Institute for the  
Study of Crime, Security and  
Law

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- The institution must take all the necessary measures to ensure the applicant receives balanced and effective protection against any form of retaliation.

### Application of the principles to the specific case

With regard to the obligations in the concrete case, the GC found first, that the EP was, indeed, not obliged to renew the contract because MEPs can freely choose with whom they wish to continue to work. The GC found second, however, that this finding has no bearing effect on the EP's duty to take the necessary protective measures. These were clearly insufficient in the case at issue. The EP did not inform TU of actions taken in response of his complaints. It also failed to fulfil its duties by merely informing TU that the discharge from his duties was the only conceivable protective measure. The EP had been required to provide the applicant with advice and assistance, and to support him by attempting to help him find a solution in addition to the discharge. Lastly, the EP infringed its duty of confidentiality by disclosing without permission TU's status as an informant, thereby exposing him to retaliation.

### Result

As a result, the GC annuls the EP's decision not to grant him a further protective measure in addition to discharging him from his duties. The GC also awards TU compensation for non-material damage in the amount of €10,000.

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