



EUROPEAN COMMISSION
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Resources and Internal Control
Acting Director

Brussels, 06 AOUT 2013
ENTR/R4/ALR/entr.r.4(2013)3021583

Mr Aris Kolimatsis
www.asktheeu.org

**Subject: Your application for access to documents – KOLIMATSIS –
Ref. GestDem No 2013/3418**

Dear Mr Kolimatsis,

We refer to your request for access to documents dated 25/06/2013 in which you make a request for access to documents, registered on 25/06/2013 under the above mentioned reference number.

We enclose the reply by DG ENTR, which includes contributions from different Units as well as other services/Directorates General and the relevant Annexes. In particular, the Secretariat General contributed on points 3 and 4 and DG RTD contributed on points 5 and 6.

Point 1: The documents drawn up by the DPO-3334.1 data controller

This document corresponds to the privacy statement sent by the controller. This privacy statement is annexed to the notification DPO-3334.1.

Point 2: The documents drawn up by the DG ENTR Data Protection Coordinator about the processing operations of DPO-3334.1

The DG ENTR Data Protection Coordinator is only registering in the Data protection IT-system the documents such as the one you have requested under point 1. Therefore, on the basis of your request, we inform you that there is not a different document as from the one requested under point 1.

Point 3: The documents drawn up by the European Commission Data Protection Officer about the processing operations of DPO-3334.1, including those he dispatched to the EDPS

No such documents exist.

Point 4: The EDPS document with his conclusion that Article 27 is not applicable

No such document exists; The EDPS has, however, issued two letters regarding audit activities by the Commission, concluding that these are not subject to a prior check. The two letters are available on the EDPS website:

http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2009/09-10-27_Commission_controls_expost_EN.pdf

and

http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2007/07-10-19_Commission_audit_funds_EN.pdf

Point 5, a) b) c) d):

Concerning the 'specific tool allowing the exchange of lists of projects (for an auditee')....' the following documents drawn up either by Commission staff (including intra-muros), or the Commission's external informatics contractors, but NOT by vendors of Information Technology products:

a. The user manuals

b. The technical documentation of the tool, or their equivalents, which include the documents 'Software Requirements Specifications Document', the 'Software Design Document', the 'Test Cases Specifications', the 'Test Report' and the 'System Administration Manual'.

c. The document(s) describing in detail how information from the Information Systems of the Research family DGs is to be accessed or extracted for use in the tool.

d. The internal 'decision' about the development and further maintenance of the tool. The term 'decision' includes also the implied 'decision' of DG ENTR to develop or use the tool.

The described IT tools refer to the SAR applications (SAR-WIKI, SAR-PAA and SAR-EAR).

DG DIGIT has developed these IT tools and therefore any documents (such as user manuals, technical documentation of the tool, documents describing in detail how information from the Information Systems of the Research family DGs is to be accessed, ... and internal administrative act ...) related to them should be requested from DG DIGIT.

We do not have any of the requested documents.

About DG ENTR 'decision' to use the common tools (SAR-WIKI, SAR-EAR and SAR-PAA), it is part of the common audit policy agreed by all Research DG's (see document 'FP7 Ex-post Audit Strategy 2009-2016' that you have already received on 23/07/2013 by DG MOVE in reply to your request GESTDEM 2013/3488).

Point 6, a) b) c) d):

~~Concerning the 'specific tool to facilitate searching and visualisation of information about participants in grants and contracts' the following documents drawn up either by Commission staff (including intra-muros), or the Commission's external informatics contractors, but NOT by vendors of Information Technology products:~~

a. The user manuals

b. The technical documentation of the tool, or their equivalents, which include the documents 'Software Requirements Specifications Document', the 'Software Design Document', the 'Test Cases Specifications', the 'Test Report' and the 'System Administration Manual'.

c. The document(s) describing in detail how information from the Information Systems of the Research family DGs is to be accessed or extracted for use in the tool.

d. The internal 'decision' about the development and further maintenance of the tool. The term 'decision' includes also the implied 'decision' of DG ENTR to develop or use the tool.

The specific IT tool mentioned in the DPO-3334.1 refers to iBase which is commercially available software. As far as the user manuals and technical documents on this tool are concerned, we refer the applicant to the following website where this information can be found.

We do not have any documents corresponding to the applicant's request.

<http://www-03.ibm.com/software/products/us/en/ibase>

Regarding the 'internal decision' on the development of the tool, please find attached the note of Mr Silva Rodríguez to Mr Brünner of 6 January 2009 (D/586298) which is considered as the DG RTD 'internal decision' to develop the IT tool referred to in the 2nd bullet point of section **2. Description** of the DPO-3334.1 on External audits and control of DG ENTR.

Point 7: *The DG ENTR prior notification of article 25 of Regulation No 45/2001 concerning the DG ENTR external financial audits prior to 20/3/2011*

There is no prior notification of article 25 of Regulation No 45/2001 concerning the DG ENTR external financial audits prior to 20/3/2011.

Point 8, a)

DG ENTR drawn up documents bringing to the attention of the Member of the Commission responsible for DG ENTR:

a. That DPO-3334.1 essentially states that no subcontractors had been engaged in DG ENTR external financial audits of FP6 contractors and FP7 beneficiaries, which appears to be in total contradiction with reality. For instance, page 36 of the 2011 DG ENTR Annual Report, table 3.3 states that DG ENTR paid in 2008 – 2011 for 'Cost of outsourced auditing (in €)' over 2.2 million Euro.

This point of the notification does not state that DG ENTR doesn't engage subcontractors. Subcontractors are engaged through a call for tender's process, and one of the clauses of the contract states that the subcontractor must assure the data protection by his side.

Point 8, b):

DG ENTR drawn up documents bringing to the attention of the Member of the Commission responsible for DG ENTR:

b. That it is not immediately obvious that the particular passage of the statement of assurance in page 58 of the said annual report 'Confirm that I am not aware of anything not reported here which could harm the interests of the institution' is fully in line with what a diligent public administration ought to have ensured in terms of legality. This is even more the case when the matter solely concerns compliance with article TFEU 16(1) and Regulation No 45/2001.

The Annual Activity Reports of the DGs are publicly available documents readily accessible on Internet (http://ec.europa.eu/atwork/synthesis/aar/aar_2011_en.htm). The Declaration of Assurance on page 58 in 2011 Annual Activity Report of DG Enterprise and Industry provides overall statement of reasonable assurance on the resources used by DG Enterprise and Industry in 2011. This reasonable assurance is based on the information available at the time of the declaration signature.

Concerning the information to the Commissioner, as reported in point 2.3 of the 2011 Annual Activity Report, "the main elements of this report and assurance declaration, including the reservations envisaged, have been brought to the attention of the Vice-President of the Commission, Antonio Tajani."

The final version of the 2011 Annual Activity Report (see link above) was sent to the Vice President on 29/03/2012.

Please note that the documents provided to you cannot be reproduced or disseminated for commercial purposes without prior consent given by the Commission.

Yours faithfully,



Lluís Prats

Enclosures:

- Note of Mr Silva Rodríguez to Mr Brünner of 6 January 2009 (D/586298)
- Privacy statement DPO 3334