



Brussels, 4 June 2012  
SLx/DD/ktl D(2012)1136 C 2012 - 0457

**Subject: Your request for access to documents of 29 May 2012 (C 2012 - 0457)**

Dear [REDACTED]

I am writing to you in reference to your request for access to documents which you sent to the EDPS on 29 May 2012.

Having examined your requests under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, the EDPS regrets to inform you that we did not identify in our records any document related to the cases you mention in your requests (DPO - 3338 of DG INFSO, DPO-3398 of DG RTD, and DPO - 3420 of DG MOVE). In particular these processing operations have not been submitted to the EDPS for a prior check or a formal consultation. Therefore, the EDPS does not possess either the prior-checking notifications to these cases or any supporting documents related to them.

As the EDPS does not have the documents you request, the EDPS suggests that you contact the Commission's Data Protection Officer (DPO) for further information regarding the above-mentioned cases, in particular the reasons which let the Commission not to submit them to the EDPS for prior-check. The contact details of the DPO are the following: [data-protection-officer@ec.europa.eu](mailto:data-protection-officer@ec.europa.eu).

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/webday/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2009/09-10-27\\_Commission\\_controls\\_expost\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webday/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2009/09-10-27_Commission_controls_expost_EN.pdf)

and

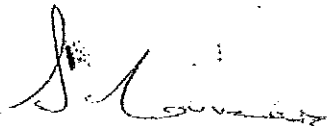
[http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2007/07-10-19\\_Commission\\_audit\\_funds\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2007/07-10-19_Commission_audit_funds_EN.pdf)

Independently, if you believe that your rights as a data subject have been infringed as a result of the processing of your personal data by the European Commission, you can submit a complaint to the EDPS by filling in the complaint submission form. This is available on the EDPS internet site, together with helpful background information on the handling of complaints, at:

<http://www.edps.europa.eu/EDPSWEB/edps/lang/en/Supervision/Complaints>

Please be informed that pursuant to Article 7(2) of Regulation 1049/2001, you may make a confirmatory application asking the EDPS to reconsider his position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the EDPS general e-mail: [edps@edps.europa.eu](mailto:edps@edps.europa.eu).

Yours Sincerely,



Sophie LOUVEAUX  
Head of Unit (Supervision and Enforcement)



EUROPEAN DATA  
PROTECTION SUPERVISOR

GIOVANNI BUTTARELLI  
ASSISTANT SUPERVISOR

[REDACTED]

Brussels, 18 June 2012  
GB/DD/mch/D(2012) 1298 C 2012 - 0457

**Subject: Your emails of 4 - 8 June 2012 (Case 2012 - 0457)**

Dear [REDACTED]

I am referring to the 11 emails you sent to the EDPS in the period 4 - 8 June 2012. You provided us with a number of allegations and with a voluminous documentation in order to support your allegations. From your emails we understand that you believe that the Commission is in breach of the EU data protection rules when conducting audits of R&D projects.

The EDPS takes note of your communications and will decide if any further action should be taken in this regard. We will contact you only in case we would need any additional information from you.

The EDPS was not able to identify and understand from all the information provided in your letters and the documents that you attached to these letters how the alleged breaches are related to the processing of your own personal data by the European Commission and how they have directly affected you.

As the EDPS has consistently emphasized in his previous communication with you, you have, according to Article 32 (2) of the Regulation (EC) 45/2001, a possibility to lodge with the EDPS a complaint if you consider that your rights have been infringed as a result of the processing of your personal data by the European Commission. If you would decide to do so on a basis of sufficient grounds for an inquiry, we would kindly request you to fill in the Complaints Submission Form which is available on the EDPS internet site: <http://www.edps.europa.eu/EDPSWEB/edps/cache/off/Supervision/Complaints> and to provide us with a concise, structured and clear exposition of your allegations, supported by relevant documents.

Yours sincerely,

Giovanni BUTTARELLI

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Offices: rue Montoyer 63

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Tel.: 02-283 19 00 - Fax : 02-283 19 50

**From:** European Data Protection Supervisor  
**Sent:** 15 January 2013 15:52  
**To:** [REDACTED]  
**Subject:** Our ref. 2012-1073 D-0059

Dear Mr [REDACTED]

On 17 December 2012, the EDPS received your request under Regulation (EC) No 1049/2001 for public access to documents drafted by the EDPS and submitted to the EDPS by the European Commission concerning the Seventh Framework Programme - FP7 of Research and Technological Development and OLAF's external investigations of entities whose legal relationship with the Commission is solely governed by private law contracts. On 18 December 2012, we sent you an acknowledged of receipt and informed you that the request was registered with case number 2012-1073.

At the outset, we wish to inform you that the notifications (DPO-978, DPO-2382 and DPO-1260) you refer to in your request are posted on the European Commission's website and included in the Register of Notifications on the processing of personal data sent by Controllers to the European Commission's Data Protection Officer on the basis of Art. 25(1) of Regulation (EC) 45/2001. You may be aware that these notifications are not submitted to the EDPS. In accordance with Art. 27(1) of Regulation (EC) No 45/2001 only processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes are subject to prior checking by the EDPS. Therefore, if you need specific information concerning these notifications you should turn to the Commission, e.g. by requesting access to documents through an on-line request form available at: <https://ec.europa.eu/transparency/regdoc/fmb/formulaire.cfm?cl=en>.

The EDPS keeps a public register of all processing operations notified to the EDPS under Article 27(1) of Regulation (EC) No 45/2001. This register can be found on our website at: <http://www.edps.europa.eu/EDPSWEB/edps/site/mySite/Register>. It contains all notifications for prior checking submitted by the controllers (EU institutions and bodies) and EDPS opinions analysing the compliance of data processing operations with Regulation (EC) No 45/2001. A filter allows to easily identify cases that are of interest for the person consulting the register.

The register shows that the EDPS has been notified by ERCEA on four data processing operations relating to FP7 (see EDPS case files 2011-0661, 2011-0738, 2011-0845, 2012-0831). The EDPS has also been notified by OLAF for data processing operations carried out by OLAF in the context of different external investigations (see EDPS case files 2007-0047, 2007-0048, 2007-0049, 2007-0050, 2007-0072 and 2011-1130).

We would like to invite you to consult our register and see whether you can find the documents you requested relating to notifications the EDPS received under Article 27(1) of Regulation (EC) No 45/2001. If the documents in the register do not satisfy your request, we would like to ask you, in accordance with Article 6(2) of Regulation (EC) No 1049/2001, to use the register to further specify your request.

With regard to your request of access to documents on the FP7 which relate to administrative measures submitted to the EDPS in accordance with Art. 28(1) of Regulation (EC) No 45/2001, we hereby inform you that we have not identified any such documents held by the EDPS.


We are available for further clarifications if you have any further questions.

Yours sincerely,



**EDPS Secretariat**

Tel. +32 2 283 19 00 | Fax +32 2 283 19 50

 [edps@edps.europa.eu](mailto:edps@edps.europa.eu)

**European Data Protection Supervisor**

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Office address: Rue Montoyer 30, B-1000 Brussels

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**From:** European Data Protection Supervisor  
**Sent:** 15 February 2013 15:26  
**To:** [REDACTED]  
**Subject:** Our ref. 2012-1073 D-327  
**Attachments:** Document 1.pdf; Document 2.pdf; Document 3.pdf; Document 4.pdf; Document 5.pdf; Document 6.pdf; Document 7.pdf; Document 8.pdf

Dear Mr [REDACTED]

Further to your email of 25 January 2013 providing clarifications to your request for access to documents submitted on 17 December 2012, we have identified in our records additional documents that may be relevant to some but not all of your specific requests.

1. You may find useful and relevant to your request the EDPS Policy paper entitled "The EDPS and EU Research and Technological Development" that is posted on our website at:  
<http://www.edps.europa.eu/EDPSWEB/edps/EDPS/Publications/Papers>

This document describes the possible roles the EDPS could play for research and development (RTD) projects in the context of FP7 and presents the selection criteria for the projects that qualify for EDPS action and the ways in which the EDPS could contribute to these projects. One of EDPS' contributions to EU RTD is that of an opinion in relation to individual RTD projects aimed at providing an expert view on the data protection aspects of a given project.

Following this policy document the EDPS has adopted an opinion concerning a research project named Turbine (TrUsted Revocable Biometric IdeNtitiEs). This opinion can be found on the EDPS website at:  
[http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2011/11-02-01\\_FP7\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2011/11-02-01_FP7_EN.pdf)

2. You may also find useful to consult the EDPS Policy paper on Consultations in the field of Supervision and Enforcement that is available on our website at:  
<http://www.edps.europa.eu/EDPSWEB/edps/site/mySite/Papers#PolicyP>

The policy paper was adopted on 23 November 2012 and is based on our practice developed so far in the field of consultation in supervision and enforcement. In this document the EDPS emphasizes, among others, that data protection rules should be taken into account when administrative measures are drawn up (which relate to the processing of personal data) and advises data controllers to consult their DPO from the outset. It is highlighted that consultations may be referred to the EDPS thereafter in cases of complexity or when related to matters affecting all staff, or posing appreciable risks to the rights and freedoms of the data subjects.

3. We have identified a consultation case concerning data processing by the European Commission in the frame of projects/contracts/grants award procedures. It relates to an inquiry submitted to the EDPS by the French Data Protection Authority (CNIL) concerning proportionality of data collected by the European Commission in contracts/grants award procedures. You can find in attachments the inquiry of CNIL and relevant documents drafted and received by the EDPS in this case. (See Documents 1-6 in attachment)

4. With regard to OLAF external investigations and related EDPS analysis, we have identified two other documents, apart from our prior check opinions, which may have relevance to your request. They relate to the measures implemented by OLAF following our recommendations in prior check cases 2007-0047, 2007-0048, 2007-0049, 2007-0050, 2007-0072. These follow up measures were subject to an inspection carried out by the EDPS in July 2011 and the outcomes of this inspection can be found in the EDPS inspection report and the minutes of the inspection. (See Documents 7-8 in attachment)

Please note that some parts of the report and the minutes are blanked out. Public disclosure of the parts that have been blanked out would in our view undermine the protection of the interests laid down in Article 4(1)(a), first indent, Article 4(1)(b) and Article 4(2), third indent of Regulation (EC) No 1049/2001.

More specifically, some of the parts that have been blanked out contain information about the security measures adopted by OLAF. Disclosure of such information would reveal certain characteristics of the security system adopted by OLAF (physical and digital) and would pose a real threat to the security of OLAF (including the security of the personal data handled by OLAF).

Furthermore, other parts that have been blanked out contain sometimes very sensitive information provided by OLAF case handlers during meetings held between the EDPS and OLAF in the particular context of the EDPS inspection. This information has been provided to the EDPS in an atmosphere of trust which was needed to collect detailed and reliable evidence from OLAF. Disclosure of such information would undermine this atmosphere of trust and the effectiveness and purpose of the (future) inspections and investigations, as laid down in Article 4(2), third indent of Regulation (EC) No 1049/2001.

Moreover, some parts that have been blanked out in the minutes contain personal information (the identity) of OLAF case handlers. The disclosure of such information alone and in connection with specific OLAF investigations cannot be revealed as such disclosure would undermine the protection of privacy and integrity of the individuals in question, as laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001.

5. Finally, it seems from your correspondence that you have identified certain data processing activities by the European Commission which in your view constitute an infringement of the data protection law. We would invite you in first instance to contact the DPO of the Commission in order to address the issues raised.

Independently, if you believe that your rights as a data subject have been infringed as a result of the processing of your personal data by the Commission, you can submit a complaint to the EDPS by filling in the complaint submission form that can be found at <http://www.edps.europa.eu/EDPSWEB/edps/cache/off/Supervision/Complaints>


We are available for further clarifications if you have any further questions.

Kind regards,



**EDPS Secretariat**

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 [edps@edps.europa.eu](mailto:edps@edps.europa.eu)

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**From:** European Data Protection Supervisor  
**Sent:** 08 March 2013 16:31  
**To:** [REDACTED]  
**Subject:** Our ref. 2012-1073 D-518  
**Attachments:** edps\_logo.png; edps\_mail.png; edps\_twitter.png; edps\_web.png

Dear Mr [REDACTED]

In your email submitted on 17 February 2013 you clarified further your request for access to documents and requested more specifically:

- "all documents (drawn up by the EDPS and the European Commission) with respect to the references found in DPO-3338 and DPO-3398", and
- "all documents pertaining to the *EDPS investigation* referred to in the Ombudsman Decision 3264/2008/(WP)GG".

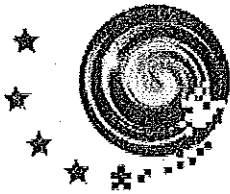
As far as the first point is concerned, please be informed that these notifications have not been submitted to the EDPS for prior checking because the processing operations concerned belong to the type of processing operations covered by the EDPS Opinions adopted in cases 2007-0370 (Audits) and 2009-0565 (Ex post controls) and for which the EDPS concluded that *the processing operations do not fall under the scope of Article 27 of the Regulation*. For more information concerning these notifications, please contact the European Commission. The EDPS Opinions in cases 2007-0370 and 2009-0565 can be found in the register of all processing operations notified to the EDPS under Article 27(1) of Regulation (EC) No 45/2001 that is available on our website:  
<http://www.edps.europa.eu/EDPSWEB/edps/site/mySite/Register>.

As far as the second point is concerned, as the documents in question have been submitted to the EDPS by the European Commission, we have consulted the Commission in accordance with Article 4 (4) of Regulation (EC) No 1049/2001. We have been informed that, due to the complexity of the case, the Commission needs more time to reply.

As a consequence, please be informed that you will receive a reply to your request for access to "all documents pertaining to the *EDPS investigation* referred to in the Ombudsman Decision 3264/2008/(WP)GG" once we have received and considered the Commission's response, but in principle no later than on 3 April 2013.


Sincerely,





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**From:** European Data Protection Supervisor  
**Sent:** 03 April 2013 16:27  
**To:** [REDACTED]  
**Subject:** Our ref. 2012-1073 D-0616  
**Attachments:** 01.EDPS internal emails\_MEMO.pdf; 02.Email\_EDPS\_COM\_14.01.09.pdf;  
03.EDPS\_complainant\_31.10.08\_DE.pdf; 04.EDPS\_INFISO\_4.12.08.pdf;  
05.EDPS\_complainant\_17.12.08 (DE).pdf; 06.INFSO\_EDPS\_29.01.09.pdf;  
07.EDPS\_INFISO\_09.03.09.pdf; 08.EDPS decision.pdf; 09.INFSO\_EDPS\_07.04.09.pdf;  
10.EDPS\_INFISO\_13.05.09.pdf; 11.EDPS\_complainant\_13.05.09.pdf;  
12.EDPS\_OMBUDSMAN\_13.05.09.pdf

Dear Mr [REDACTED]

In your emails submitted on 17 February 2013 and 11 March 2013 you clarified further your initial request for access to documents. More specifically, you requested:

- "all documents (drawn up by the EDPS and the European Commission) with respect to the references found in DPO-3338 and DPO-3398 *"This processing has been submitted to the EDPS who concluded that Article 27 is not applicable"*;
- "all documents pertaining to the *EDPS investigation* referred to in the Ombudsman Decision 3264/2008/(WP)GG. [...] The parts of the documents enabling the identification of the natural and legal persons are to be expunged."

As for the former, we can confirm that the notifications mentioned by you (DPO-3338, DPO-3398, DPO-3334 and DPO-3420) have not been submitted to the EDPS for prior checking. Consequently, the EDPS has not drawn up any related documents that could be subject to disclosure. Should you require access to documents concerning them, please contact the European Commission.

As for the latter, please find attached the following documents:

1. Internal EDPS exchange of emails with a memo on the case attached;
2. Email EDPS staff member to DG INFSO (agreement on the deadline);
3. Letter from EDPS to the complainant's lawyers (in German) dated 31 October 2008;
4. Letter from EDPS to DG INFSO dated 4 December 2008 (request for information);
5. Letter from EDPS to the complainant's lawyers (in German) dated 17 December 2008;
6. Letter from DG INFSO to EDPS dated 29 January 2009 (NB only attachments originating from EDPS or the Commission, i.e. Annexes 2, 4, 5, 7 and 8, are included; see below for more explanation)
7. Cover letter from EDPS to DG INFSO dated 9 March 2009;
8. EDPS decision dated 9 March 2009;
9. Request from DG INFSO to EDPS to revise his decision dated 7 April 2009;
10. Letter from EDPS to DG INFSO dated 13 May 2009 (decision on the request for revision);
11. Letter from EDPS to the complainant dated 13 May 2009;
12. Letter from EDPS to the Ombudsman dated 13 May 2009.

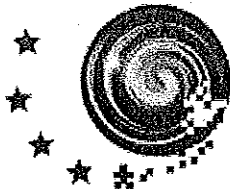
As per your request, the parts of the documents enabling the identification of the natural and legal persons have been removed (the information about legal persons involved would allow the identification of the natural persons implicated in the case).

Please note that several attachments to the document listed under No. 6 above are in fact documents which originate neither from the EDPS nor the Commission. As consulting with third parties in accordance with Article 4(4) of Regulation (EC) No 1049/2001 is time consuming and relatively resource-intensive, we would appreciate an indication on your part whether, at this point in time, you consider access to those documents essential, given that *prima facie* they do not appear directly relevant to the EDPS investigation referred to in the Ombudsman Decision 3264/2008/(WP)GG.

Please also be informed that, for what concerns the original complaint filed with the EDPS, we have not yet been able to conclude the consultation of third parties in accordance with Article 4(4). We will come back to you as soon as we have finalised our assessment on this item.


We remain at your disposal for any clarification you may need.

Best regards,



**EDPS Secretariat**

Tel. +32 2 283 19 00 | Fax +32 2 283 19 50

 [edps@edps.europa.eu](mailto:edps@edps.europa.eu)

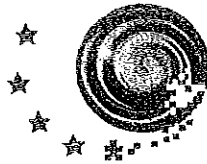
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EUROPEAN DATA  
PROTECTION SUPERVISOR

HIELKE HIJMANS  
HEAD OF UNIT

[REDACTED]

By e-mail: [REDACTED]

Brussels, 26 June 2013

HH/ABu/et/D(2013) 1360 C 2013-0596

**Subject:** Your request for access to documents of 4 June 2013 (our ref. 2013-0596)

Dear Mr [REDACTED]

I refer to the access to documents request which you submitted to the EDPS on 4 June 2013.

Please find below information related to your request.

1. Your **request number 1** concerns "the *internal* documents directly concerned with the *monitoring* by the EDPS of the compliance with article 16(1) TFEU and Regulation No 45/2001 of the Commission's *proposals* for Regulations of the European Parliament and the Council, and which the Commission has published from 1/1/2011 to 31/12/2012.

An example of such a *proposal* is the *proposal for a Regulation of the European Parliament and the Council laying down the rules for the participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020), COM(2011) 809 final, 2011/0401 (COD)*. My research of the EDPS public website discloses that for that particular proposal the EDPS has not published an kind of opinion."

Please be informed that the EDPS has not drawn up any documents concerning the abovementioned proposal for a Regulation of the European Parliament and the Council laying down the rules for the participation and dissemination in "Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)". Please also note that we have not identified any documents submitted to the EDPS by the Commission concerning that proposal.

As far as other proposals for Regulations of the European Parliament and of the Council drawn up by the Commission we have identified 41 cases in which the EDPS was consulted for the purpose of providing informal comments between 1 January 2011 and 31 December 2012; a list is attached to this letter [attachment 1].

Please note that, as a rule, the EDPS does not pro-actively render its *informal comments* on legislative proposals public.

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2. Your request number 2 concerns "any documents the EDPS has dispatched to the European Commission Data Protection Officer, or the Commission services, concerning the apparent failure of the Officer to draw up the *yearly Data Protection Status Report* set forth in article 4(2) of Commission decision 2008/597/EC."

Please be informed that the EDPS has not dispatched to the Commission any documents concerning the "Data Protection Status Report" mentioned in Article 4(2) of Commission Decision 2008/597/EC<sup>1</sup>. I would also like to draw your attention that, pursuant to Article 5 of that Decision, the DPO of the Commission is required to submit the Data Protection Status Report for the Commission to the Secretary-General and the Director-General for Personnel and Administration (and not to the EDPS).

3. Your request number 3 concerns "any documents the EDPS has received by the European Commission Data Protection [Officer] pursuant to the provision of aforesaid article 4(2) "The DPO shall help the Controller to assess the risk of the processing operations under his responsibility and *monitor implementation of the Regulation in the Commission*" concerned with that *monitoring* function."

Please note that, in the context of the Commission Decision 2008/597/EC, the term "Controller" refers to "the official responsible for the organisational unit that has determined the purposes and the means of the processing of personal data" (see Article 1 of the Decision). Consequently, Article 4(2) of the Decision you refer to concerns the cooperation between the Commission DPO and the official responsible for the organisational unit in charge of a specific data processing operation (i.e. in practice, the Head of Unit in the relevant Commission department).

An overview of the Commission data processing operations is available from this public register: [http://ec.europa.eu/dataprotectionofficer/dpo\\_register\\_en.htm](http://ec.europa.eu/dataprotectionofficer/dpo_register_en.htm)

The EDPS keeps a public register of notifications received for the purposes of prior checking on the basis of Article 27 of Regulation (EC) No 45/2001: <http://www.edps.europa.eu/EDPSWEB/edps/site/mySite/Register>

The EDPS opinions issued as a result of prior checking can be found at: <http://www.edps.europa.eu/EDPSWEB/edps/site/mySite/OpinionsPC>

4. Your request number 4 concerns "the *internal* EDPS documents with which the EDPS has analysed the lawfulness of personal data processing by an Institution or body pursuant solely to *contractual provisions*."

We understand your request as referring to documents drawn up by the EDPS including (but not limited to) prior check opinions related to situations where the processing of personal data was based solely on Article 5(c) of Regulation (EC) No 45/2001 which reads as follows: "(c) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract".

We have identified the following document: Opinion on a notification for prior checking received from the Data Protection Officer of the Court of Justice of the European

<sup>1</sup> Commission Decision of 3 June 2008 adopting implementing rules concerning the Data Protection Officer pursuant to Article 24(8) of Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (2008/597/EC), OJ L 193, 22.7.2008, p. 7.

Communities on the assessment of the work of freelance translators, Brussels, 12 July 2005 (Case 2004/286). It is available on the EDPS website: [http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Opinions/2005/05-07-12\\_ECJ\\_work\\_assessment\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Opinions/2005/05-07-12_ECJ_work_assessment_EN.pdf) and I attach a copy for your convenience. [attachment 2]

5. Your **request number 5** concerns "the *internal* EDPS documents with which the EDPS has analysed the lawfulness of personal data processing of external financial audits of the Research family DGs. There are at least five prior notifications for such processing, namely DPO-3334, DPO-3338, DPO-3398, DPO-3420 and DPO-3455 concerned with the personal data processing of those audits."

In fact, the numbers you refer to concern notifications of processing operations to the DPO in accordance with Article 25 of Regulation (EC) No 45/2001 and not prior check notifications to the EDPS. These processing operations have not been submitted to the EDPS for a prior check or a formal consultation.

6. Your **request number 6** concerns "the *internal* EDPS documents with which the EDPS (a) has assessed the truthfulness of the statement found in DPO-3334, DPO-3338, DPO-3398, DPO-3420 and DPO-3455 '*This processing has been submitted to the EDPS who concluded that Article 27 is not applicable*', and (b) has contacted the Commission services to 'discuss the issue'."

As indicated above, these processing operations have not been submitted to the EDPS for a prior check. 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](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](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2007/07-10-19_Commission_audit_funds_EN.pdf)

Copies of both letters are attached to this email for your convenience. [attachments 3 and 4]

7. Your **request number 7** concerns "the *internal* EDPS documents, or documents dispatched to the Commission services, with which the EDPS made some kind of enquires with the Commission services about which particular prior notification(s) of article 25 of Regulation 45/2001 were covering the external financial audits of the Research family DGs. It is noted that the provisions of article 25 are *essential procedural steps*, infringement of which renders the personal data processing unlawful, even if all other provisions are fulfilled."

I would like to clarify that Article 25 of Regulation (EC) No 45/2001 concerns notifications of processing operations to the DPO of an institution or a body, and not to the EDPS. As far as the European Commission is concerned, relevant information can be obtained from the public register referred to above: [http://ec.europa.eu/dataprotectionofficer/dpo\\_register\\_en.htm](http://ec.europa.eu/dataprotectionofficer/dpo_register_en.htm).

With respect to the EDPS approach to audits activities of the Commission, please see the letters referred to under 6 above.

8. Your request 8.1 concerns the EDPS document(s) analysing the lawfulness of the personal data processing in "the Ombudsman case 3264/2008/(WP)GG that expressly refers to an EDPS conclusion about the personal data processing."

We have identified the following documents:

8.1 The EDPS decision dated 9 March 2009 in case 2008-0622 [attachment 5];  
and

8.2 The EDPS reply to a request for a revision of his decision dated 13 May 2009 in case 2008-0622 [attachment 6].

Please find copies of both documents attached, with personal data redacted so as to safeguard the privacy and the right to the protection of personal data of the individuals involved.

9. Your request 8.2 concerns "the documents the Commission services dispatched to the EDPS as the article 25 prior notifications covering the DG INFSO external financial audit in question."

We would like to refer to the remarks and documents in points 6 and 7 above.

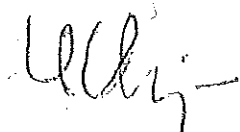
10. Your request 8.3 concerns "In the wake of the EDPS 'investigation of the complaint', the recommendations, if any, of the EDPS to the Commission services regarding the personal data processing of the external financial audits of the Research family DGs."

In this context, we would like to refer to the recommendations made by the EDPS under points 3.4 and 4 of his decision dated 9 March 2009 in case 2008-0622, mentioned under 8.1 above and attached as [attachment 5].

I trust that you will find this information and documentation useful.

Please note that, pursuant to Article 7(2) of Regulation (EC) No 45/2001, you may make a confirmatory application asking the EDPS to reconsider his position as regards the total or partial refusal of your request. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the EDPS general e-mail: [edps@edps.europa.eu](mailto:edps@edps.europa.eu).

Yours sincerely,



Hielke HIJMANS



CHRISTOPHER DOCKSEY  
THE DIRECTOR

[REDACTED]

By e-mail: [REDACTED]

Brussels, 17 July 2013  
CD/GBL/PJ/mch/D(2013) 1592 C 2013-0596  
Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all correspondence

**Subject: Your confirmatory application of 27 June 2013 (our ref. 2013-0596)**

Dear Mr [REDACTED]

Following your confirmatory application of 27 June 2013 I am pleased to grant you partial access to the documents below which are related to your request. I would like to mention that personal data have been redacted in accordance with Article 4(1)(b) that requires that any undermining of privacy and integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, and in particular with Regulation (EC) No. 45/2001.

- Initial request #4

These documents are not based as initially stated in your request on "solely contractual provisions", but the EDPS analysis refers also to Article 5 (c) of Regulation 45/2001. Please also find the internal documents related to both cases (attachment 1 and 2).

- Avis sur la notification d'un contrôle préalable reçue du Délégué à la protection des données de la Commission européenne concernant la procédure de sélection des intérimaires, Bruxelles, le 4 juin 2010 (Case 2008-704) ;
- Opinion on the notification for prior checking received regarding the "Manager Desktop" file of the European Investment Bank Brussels, 12 July 2005 (Case 2004-307).

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Offices: rue Montoyer 30

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Tel.: 02-283 19 00 - Fax : 02-283 19 50



• Initial request # 6

I am pleased to inform you that I have decided to grant you partial access to an EDPS letter issued in the context of processing personal data in the context of audits and an internal EDPS Note to the file (Case 2012-0758). The reason for partial access is that Article 4 (2) of Regulation 1049/2001 requires that access shall be refused if the disclosure will undermine the purpose of an investigation. Consequently, in accordance with Article 4 (6) of the Regulation 1049/2001, if only parts of the requested document are covered by any of the exceptions, the remaining parts of the document are to be released. The parts covered by the exception have been redacted (attachment 3).

With regard to the two letters already (Case files 2007-0370 and 2009-0565) mentioned to you in our letter dated 26 June 2013, I am pleased to inform you that we have decided to grant you access to the internal documents of these cases (attachment 4 and 5).

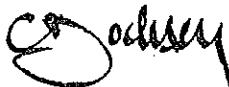
For the rest of your points mentioned in your confirmatory application:

- The EDPS does not hold any further documents, relating to your initial requests 5, 7 and 8.

Please note that pursuant to Article 8(1) of Regulation (EC) No 1049/2001 you are entitled to make a complaint to the European Ombudsman or institute proceedings before the Court of Justice of the European Union against the EDPS, under the conditions laid down in, respectively, Articles 228 and 263 of the Treaty on the Functioning of the European Union.

Your reaction to our letter of 26 June 2013 also contains elements that do not request further documents. I cannot consider those elements in the context of this confirmatory application but should you have any complaints regarding the EDPS please be advised that you are entitled to make a complaint or institute proceedings under the procedures mentioned above.

Yours sincerely,



Christopher DOCKSEY



EUROPEAN DATA  
PROTECTION SUPERVISOR

HIELKE HIJMANS  
HEAD OF UNIT

Mr [REDACTED]

By e-mail:  
[REDACTED]

Brussels, 17 July 2013

HH/PJ/mch/D(2013) 1591 C 2013-0714

Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all  
correspondence

**Subject: Your request for access to documents of 27 June 2013 (our ref. 2013-0714)**

Dear Mr [REDACTED]

I refer to the access to documents request which you submitted to the EDPS on 27 June 2013.

Please find below information related to your request.

1. Your requests number 1, 2, 3 and 4 concern "the EDPS analysis about the lawfulness of the personal data processing by DG INFSO pursuant to the contractual provisions on external financial audits, i.e. Article II. 29 of the FP6 model contract"; "the EDPS documents analysing how the personal data processing of the DG INFSO external financial audits (not the particular EDPS investigation) was compliant with articles (5), (7), 12 (1), 23, 25, 27 and 28 (1) of Regulation No 45/2001 (DG INSO DPO-3338)"; "the EDPS documents analysing the compliance of the DG INFSO external financial audits with the provisions of articles (5), (7), 12 (1), and 25 of Regulation No 45/2001 with respect to the particular external financial audit, i.e. that of the EDPS investigation"; "the EDPS documents analysing whether or not at external financial audits of DG INFSO, either the DG INFSO staff or its external contractors/auditors as the case may be, are, in addition to Union law, subject to the national personal data protection legislation".

Please be informed that we have identified the following documents:

The EDPS decision dated 9 March 2009 in case 2008-0622 [attachment 1];

The EDPS reply to a request for a revision of his decision dated 13 May 2009 in case 2008-0622 [attachment 2].

Please find copies of both documents attached, with personal data redacted so as to safeguard the privacy and the right to the protection of personal data of the individuals involved.

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2. Your request number 5 concerns "referring to the EDPS investigation, the DG INFSO drafted documents on which the EDPS relied on to verify the compliance of DG INFSO with article 12 (1) of Regulation No 45/2001."

According to your request, we have identified the following document: DG INFSO reply to the EDPS request about the complaint dated 29 January 2009 in case 2008-0622 [attachment 3].

Please find a copy of this document attached, with personal data redacted so as to safeguard the privacy and the right to the protection of personal data of the individuals involved.

3. Your request number 6 concerns "the EDPS documents analysing the lawfulness of personal data processing operations by Institutions pursuant to contractual provisions. Such documents may also concern consultations and prior checks of other institutions."

We have identified the following documents:

Opinion on a notification for prior checking received from the Data Protection Officer of the Court of Justice of the European Communities on the assessment of the work of freelance translators, Brussels, 12 July 2005 (Case 2004/286). It is available on the EDPS website:

[http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Opinions/2005/05-07-12\\_ECJ\\_work\\_assessment\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Opinions/2005/05-07-12_ECJ_work_assessment_EN.pdf) [attachment 4].

Avis sur la notification d'un contrôle préalable reçue du Délégué à la protection des données de la Commission européenne concernant la procédure de sélection des intérimaires, Bruxelles, le 4 juin 2010 (Dossier 2008-704) [attachment 5].

Opinion on the notification for prior checking received regarding the "Manager Desktop" file of the European Investment Bank Brussels, 12 July 2005 (case 2004-307) [attachment 6].

The EDPS letter to Ms Catherine Day dated 4 October 2011 in case 2011-0387 [attachment 7].

The EDPS letter to Ms Falque Pierrotin (CNIL) dated 4 October 2011 in case 2011-0362 [attachment 8].

Copies of these documents are attached to this email for your convenience.

4. Your request number 7 concerns "the documents the European Commission Data Protection Coordinator sent to the EDPS, on the basis of which the EDPS concluded that DPO-3338.1 was not subject to an EDPS article 27 prior check".

In fact, the number you refer to concern notifications of processing operations to the DPO in accordance with Article 25 of Regulation (EC) No 45/2001 is not a prior check notification to the EDPS. This processing operation has not been submitted to the EDPS for a prior check or a formal consultation, therefore, we could not identify any documents complying with your request.

5. Your request number 8 concerns "the internal EDPS documents on the basis of which EDPS concluded the DPO-3338.1 was not subject to an EDPS article 27 prior checks".

As mentioned above, this processing operation has not been submitted to the EDPS for a prior check. The EDPS has, however, issued two letters regarding audit activities by the Commission, concluding that they 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\\_controles\\_expost\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2009/09-10-27_Commission_controles_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](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Priorchecks/Letters/2007/07-10-19_Commission_audit_funds_EN.pdf)

Copies of both letters are attached to this email for your convenience [attachments 9 and 10].

6. Your request number 9 concerns "the EDPS drafted documents informing the citizens-applicants about the EDPS' drafted documents about the DPO-3338.1 'non-prior check'".

Please be informed that citizens have requested documents drafted by the EDPS about prior-check notifications of the DPO-3338.1 and the EDPS consultations on it, but not about non-prior checks. For this reason we have not been able to identify any documents referring to your request.

7. Your request number 10 and the request in the paragraph C concern "the presentation the DG INFSO gave to the EDPS about matters relating to the DG INFSO external financial audits, including other related documents drafted by the Commission services, and delivered to the EDPS on the occasion of the presentation or thereafter" and "the DG INFSO presentations about their techniques, practices and operational measures in the framework of the external financial audits presented to the EDPS".

Please note that this matter is related to the information given in the DG INFSO reply to the EDPS request about the complaint dated 29 January 2009 in case 2008-0622, which we have disclosed to you [attachment 3]. Any other presentations by the DG INFSO have not been given to the EDPS.

8. Your request number 11 concerns "the EDPS drafted documents requesting DG INFSO with clarifications and further information about its external financial audits and individual and specific complaints lodged with the EDPS by data subjects about DG INFSO external financial audits".

According to your request, we have identified the following document: the EDPS request to the DG INFSO about the complaint dated 4 December 2008 in case 2008-0622 [attachment 11].

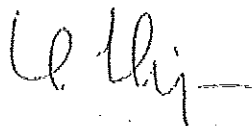
Please find a copy of this document attached, with personal data redacted so as to safeguard the privacy and the right to the protection of personal data of the individuals involved.

Please be also informed that the EDPS has sent a request to DG CONNECT regarding the on-going investigation into a complaint dated 21 June 2013 in case 2013-0374, but, according to the Article 4 (2) of Regulation (EC) No 1049/2001, it cannot be disclosed because such disclosure would undermine the purpose of an on-going investigation of the complaint.

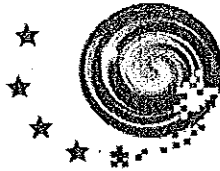
I trust that you will find this information and documentation useful.

Please note that, pursuant to Article 7(2) of Regulation (EC) No 45/2001, you may make a confirmatory application asking the EDPS to reconsider his position as regards the total or partial refusal of your request. Such confirmatory application should be addressed within 15 working days upon receipt of this letter to the EDPS general e-mail: [edps@edps.europa.eu](mailto:edps@edps.europa.eu).

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'H. Hijmans', with a horizontal line extending from the end.

Hielke HIJMANS



EUROPEAN DATA  
PROTECTION SUPERVISOR

GIOVANNI BUTTARELLI  
ASSISTANT SUPERVISOR

Mr Philippe RENAUDIERE  
Data Protection Officer  
European Commission  
BRU BERL 08/180  
B - 1049 BRUSSELS

Brussels, 27 October 2009  
GB/JL/kt/ D(2009)1492 C 2009-0565

**Subject: Notification for prior checking concerning "ex post controls ".**

Dear Mr Renaudiere,

Having examined the notification concerning the management of *ex post* controls (ref. EDPS: 2009-565), we have come to the conclusion that the case is not subject to prior checking by the EDPS.

The processing operation was notified pursuant to Article 27(2)(a) of Regulation (EC) No 45/2001 (hereinafter referred to as "the Regulation").

Article 27(1) of the Regulation makes all "*processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes*" subject to prior checking.

Specifically, Article 27(2) of the Regulation contains a non-exhaustive list of processing likely to present such risks, notably "*the processing of data relating to health*" (point a).

The EDPS notes that the processing operation described in the notification is an *ex post* control procedure put in place to enable implementation of the checks required by Article 47(3) of the Regulation laying down detailed rules for the implementation of the Financial Regulation to issue an opinion on the regularity and legality of the transactions verified and the quality of financial management. The operational units of Directorate K, DG RELEX and the Commission delegations at the level of authorising officers by subdelegation, persons making financial transactions or their beneficiaries are subject to *ex post* controls. In that context, transactions relating to the remuneration of persons and the payment of individual entitlements may be verified. That implies consulting and checking personnel files to ensure the accuracy of entitlements and calculations. Anyone who has received a payment or reimbursement falling under the administration's budgetary headings may be the subject of an *ex post* control. *Ex post* controls may concern, in particular, outgoing payments related to medical check-ups, invalidity, etc. In that scenario, the auditors would have access to health-related data within the meaning of Regulation (EC) No 45/2001 i.e. medical certificates, proof of medical expenditure, invalidity certificates, absence sheets and other documents resulting in reimbursement of expenditure generated in the framework of the arrangements for medical cover.

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Article 27(2) of the Regulation primarily concerns processing operations whose main purpose is to process data relating to health and to suspected offences, offences, criminal convictions or security measures. The purpose of these *ex post* controls is not the processing of that data. In fact, the auditors' familiarisation with this type of data is accidental rather than systematic. The main aim of *ex post* controls is to curtail the risks related to the quality of management and control systems, provide recommendations to improve the situation and promote sound financial management.

Moreover, if, following an *ex post* control, investigations can be conducted by the Investigation and Disciplinary Office (IDOC), the European Anti-Fraud Office or the national authorities, these procedures constitute a particular risk which would justify prior checking by the EDPS pursuant to Article 27 of the Regulation. Nevertheless, the risk is created by the investigative procedures themselves and not by the *ex post* control which is the subject of this notification. The *ex post* control procedure is general and may not be considered a specific investigative task because it does not set out to investigate certain persons or certain behaviour. Instead, its purpose is to examine the systems and the associated risks in general.

If you feel there are other reasons that warrant prior checking by the EDPS we are prepared to reconsider our position. Similarly, should there be any change in this processing operation we would ask you to consider whether the operation needs to be submitted to the EDPS for prior checking.

Yours sincerely,

(Signed)

Giovanni BUTTARELLI



JOAQUIN BAYO DELGADO  
ASSISTANT SUPERVISOR

Mr Philippe RENAUDIERE  
Data Protection Officer  
European Commission  
BRU BERL 08/180  
B - 1049 BRUSSELS

Brussels, 19 October 2007  
JBD/EDK/kl D(2007)1606 C 2007-0370

Dear Mr Renaudière,

I am writing you about the prior checking notification concerning the "Audit of the European Regional Development Fund (ERDF), the Cohesion Fund and the Instrument for Structural Policies for Pre-accession (ISPA)" which you notified to the EDPS on 4 June 2007 under Article 27(2)(b) of Regulation (EC) No 45/2001 (hereinafter referred to as: "the Regulation").

After an examination of the data processing operations as described in the notification for prior checking, in the legal basis and on the web site of DG REGIO, and after receiving the requested information as to the purposes of the audit activities, the EDPS concludes that the processing operation does not fall under the scope of Article 27 of the Regulation.

#### DESCRIPTION OF THE PURPOSE OF THE PROCESSING OPERATION

On 2 October 2007, the controller of the processing operation confirmed, at the request of the EDPS, *the final objective and the overall description of the audit performed by the DG* in the following terms:

There is a shared responsibility between Member State/beneficiary countries and the Commission as to the sound financial management of Community funds at question (ERDF, Cohesion Fund, ISPA/IPA). Member States/ beneficiary countries should put in place a system of managing and monitoring the funds received from the Commission, and the Commission's main responsibility is to verify the adequacy of the management and control systems put in place by Member States/beneficiary countries.<sup>1</sup>

<sup>1</sup> The following legal bases describe it in more details: Article 38(2) of Council Regulation (EC) No 1260/1999, Article 12 of Council Regulation 1164/94, Chapter II of Commission Regulation (EC) No 1386/2002, Paragraph 2 of Article 10 of Council Regulation No 1264/1999, Article 11(3) of Council Regulation No 1266/1999, Article 9(1) and (2) and Annex III and Annex IV of Council Regulation (EC) No 1267/1999, Chapter II of Commission Regulation (EC) No 438/2001.

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In order to see whether the management and control systems put in place by Member States/beneficiary countries are well functioning and adequate, DG REGIO performs audits and on the spot-checks in cooperation with the administration or auditors of the respective state. In other words, the audits performed by DG REGIO serve the final purpose of verifying whether the Member States/ beneficiary countries' management and control system is adequate, or whether systematic irregularities occur because of inadequacies in the management and control systems. This also means that specific audits examine particular beneficiaries (organisations) to see how they spent the funds and that during an audit certain irregularities committed by the audited organisations can/will be detected.

An audit by DG REGIO may detect two types of problem:

- a) weaknesses in the functioning of the management and control systems, and
- b) irregularities committed by a particular fund recipient.

In the first case, an improvement of the system is required as a result of the audit, and the Member State/beneficiary country may be required to correct expenditure which is considered at risk of irregularity as a result of the deficiency detected. In the second case, the Member State/beneficiary country will be required to correct the irregular expenditure.

In both cases if the Member State/beneficiary country fails to make the required corrections, the Commission has the power to impose financial corrections by formal decision on the basis of the applicable legislation.

#### LEGAL ASSESSMENT

Article 27(1) of the Regulation (EC) No 45/2001 subjects to prior checking by the EDPS *"processing operations likely to present specific risks to the rights and freedoms of data subject by virtue of their nature, their scope or their purposes"*. Article 27(2) of the Regulation contains a list of processing operations that are likely to present such risks. Article 27(2)(b) subjects to prior checking those processing operations which intend *"to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct."*

The reasons to consider the processing operation to be subject to prior checking under Article 27(2)(b) of the Regulation given in your email of 1 August 2007 can be summarised in the following:

First, the purpose of the auditing is to verify the good use of community funds, rather than the quality of a management system. The processing operation is more directly linked to the auditees and is more likely to entail concrete consequences for them than in the case of internal audit.

Second, there is an element of evaluation of personal aspects of the data subjects, basically the way they have used the Community money.

Third, the auditees are not EU-civil servants (as it is the case with regard to internal audits) and the possibility of opening an IDOC investigation is not available in the auditing concerned by the present case.

Concerning the first and second points:

In the light of the above referred confirmation by the controller, the EDPS considers that the auditing activities by DG REGIO *do not fall under the scope of Article 27(2)(b)*, because their main purpose is to examine the management and control systems put in place by Member States/beneficiary countries rather than aiming at assessing the particular individual conduct of the fund recipients.

The auditing by DG REGIO is a secondary tier of control with the purpose of scrutinizing the national management and control systems with regard to the funds concerned. The aim of an audit performed by DG REGIO is more abstract by nature. It is true that in order to reach the final purpose and the appropriate conclusions of an audit, as a prior element, personal data of funds recipients are collected, analysed and stored by DG REGIO. This nonetheless does not mean focused evaluation of individual performances as the purpose of the processing operation. Furthermore, the final consequences of an audit by DG REGIO concern the Member State/ beneficiary country, as they may be required to correct the irregular expenditure. Therefore, the link between the purpose of the audit and the examination of the data subjects' use of Community fund is less direct.

Concerning the third point:

In principle, follow-up investigations may occur with regard to irregularities committed by particular funds recipients. It is nevertheless irrelevant for the purpose of Article 27 which is the competent authority designated to conduct a possible follow-up investigation, whether it is IDOC or the competent authority of a Member State/ beneficiary country.

The EDPS concludes therefore, that the case is not subject to prior checking under Article 27(2)(b) of the Regulation.

However, if you believe that there are other factors justifying prior checking, we are of course prepared to review our position.

CONTENT OF PRIVACY STATEMENT

Without prejudice to the above considerations, the EDPS makes further recommendation on the issue spotted with regard to the information attached to the notification for prior checking.

Whenever an audit mission is announced, through a notification letter sent to a Member State's Representation, DG REGIO will ask them to deliver to the bodies and organisations to be audited an annex containing information on the protection of personal data by DG REGIO's audit units.<sup>2</sup> The Privacy statement, which was annexed to the notification reads as follow: *"The handling of your letter/mail may involve the recording of your coordinates and the processing of your personal data. Under Regulation EC 45/2001 on the Protection of Individuals, you have a right to access, erase and modify your data at any time, by sending us a message to the following mailbox: [region-secretariat-I2@ec.europa.eu](mailto:region-secretariat-I2@ec.europa.eu). Your data will be used solely in the framework of our unit's work; it will only be accessible by its members and will not be disclosed outside. Your data will be kept as long as required for the mission of the unit, and after will be erased or archived according to our internal rules. You can find all relevant information on the following Internet site: <http://www.edps.eu.int/>".*

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<sup>2</sup> Section 7 of the notification for prior checking.

The EDPS welcomes the *means* that DG REGIO supplies more "personalised" information to bodies or organisations to be audited via the cooperation of the Member State's Permanent Representation. This practice ensures transparency and fairness towards the data subjects.

Nevertheless, the EDPS recommends that for reason of fairness towards the data subject, more specific information is supplied to the data subjects, under Articles 11 and 12 of the Regulation, in the short Privacy Statement as to the following elements:

- the identity of the controller,
- the categories of personal data collected and processed by DG REGIO in an audit mission,
- the description of the purposes of the processing operation,
- mentioning the categories of recipients (as described in section 12 of the notification for prior checking),
- legal basis of the processing operation for which the data are intended,
- mentioning the particular time limit for storing data,
- right to have recourse to the European Data Protection Supervisor.

The EDPS welcomes the possible inclusion of his website address in the Privacy Statement, but calls upon the controller to update the information: "*You can find further information on data protection at: <http://www.edps.europa.eu>.*"

I would appreciate if you could share this position with the controller and inform us of the follow up measures taken concerning the information to be supplied to data subjects.

I remain at your disposal should you have any question concerning this matter.

Yours sincerely,

Joaquín BAYO DELGADO