



**EUROPEAN COMMISSION**

Directorate-General for Communications Networks, Content and Technology

The Director-General

Brussels,  
DG CONNECT/RM/AS/sg

Mr. Nastas

Email: [ask+request-1083-  
xxxxxxx@xxxxxxx.xxx](mailto:ask+request-1083-xxxxxxx@xxxxxxx.xxx)

**Subject: Your application for access to documents – Ref GestDem No 2014/515 under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents – partial reply**

Dear Sir,

We refer to your email dated 11/12/2013 wherein you make a request for access to documents, registered by us on 30/01/2014 with the above-mentioned reference number.

It might be understood from your request that you are critical of the way the Commission might have acted in relation with the processing of personal data. This would be an issue which, in substance, cannot be addressed and dealt with within the scope and procedure of Regulation 1049/2001. This Regulation only relates to the public divulgation of documents which are in the possession of the institution which has received the application. If, as a data subject, you wish to activate a remedy procedure related to the processing of your personal data by the Commission, we need to refer you to the remedies foreseen by article 32 of Regulation (EC) 45/2001 (OJ L8/6 of 12.1.2001) according to which "*every data subject may lodge a complaint with the European Data Protection Supervisor if he or she considers that his or her rights under article 286 of the Treaty have been infringed as a result of the processing of his or her personal data by a Community institution or body*". The Regulation also states that "*the Court of Justice shall have jurisdiction to hear all disputes which relate to the provision of this Regulation*". These means of redress would be the appropriate route to take and they are fully available to you as a data subject.

*For the sake of clarity we reply according to the numbering in your email:*

**8. The documents the Commission services drew up pursuant to Article 23(1) of Regulation 45/2001 regarding every single audit firm.**

The contract signed by the Commission with the external audit firms is based on standard public procurement procedures following the provisions of the Financial Regulation and Regulation 45/2001.

*According to the contract between the Commission and the external audit firms "any personal data included in or relating to the Contract, including its execution shall be processed pursuant to 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. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the Directorate-General or agency purchasing the service via a specific contract without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in application of Union law. The Contractor shall have the right of access to his personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his personal data, he should address them to the person mentioned under point I.7. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.*

*Where the Contract requires the processing of personal data, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.*

*The data shall be confidential within the meaning of Regulation 45/2001 of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.*

*The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risk inherent in the processing and to the nature of the personal data concerned in order to:*

*a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:*

*aa) unauthorised reading, copying, alteration or removal of storage media;*

*ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;*

*ac) unauthorised persons from using data-processing system can access only the personal data to which their access right refers;*

*b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;*

*c) record which personal data have been communicated, when and to whom;*

*d) ensure that personal data being processed on behalf of the third parties can be processed only in the manner prescribed by the contracting institution or body;*

*e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;*

*f) design its organisational structure in such a way that it meets data protection requirements."*

**9. The documents the Commission services drew up pursuant to Article 23(2) of Regulation 45/2001 regarding every single audit firm.**

Please refer to our answer under point 8.

**10. The documents the Commission services drew up pursuant to Article 23(3) of Regulation 45/2001 regarding every single audit firm.**

Please refer to our answer under point 8.

**11. For audits conducted not in an EU Member State, the documents the Commission services drew up pursuant to Article 22 of Regulation 45/2001.**

Please refer to our answer under point 8.

Please note that the external audit firms processing personal data on behalf of DG CONNECT are bound by the provisions of the contract signed with the Commission when performing audits in both EU Member States and non-EU Member States.

**12. The Article 25 of Regulation 45/2001 prior notification(s) that covered at the material time the external financial audits that led to the litigation.**

You will find enclosed the documents requested. (**Annex 1 and Annex 1A**)

Please be informed that the previous versions of the notification covering the system allowing DG CONNECT (former INFOS) to monitor the correct execution of the projects under its responsibility, albeit less detailed than the current one (DPO-3338.2, which you can find in the EC Data Protection Officer Public Register: <http://ec.europa.eu/dpo-register/details.htm?id=33543>), do comply with Article 25 of Regulation 45/2001.

Please note that you were already provided with access to the first version of Notification DPO-3338 in our reply to your request GestDem 2013/3773.

**13. The documents DG CONNECT (former INFOS) drew up pursuant to article 12(1) of Regulation 45/2001 as regards the personal data of third parties, whose personal data DG CONNECT (former INFOS) obtained from the audit firms (found in the audit reports).**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

Before an audit is undertaken, the beneficiary receives a pre-info letter announcing the audit which includes the Privacy Statement in annex containing all the information provided for by Articles 11 and 12 of Regulation 45/2001. It is the beneficiary's

obligation to inform its employees and subcontractors about the audit to take place and also about the data protection provisions foreseen in the Privacy Statement.

**15. The documents with which DG CONNECT instructed or caused, as the case may be, the audit firms to process personal data of third parties to the audited projects.**

The contract signed by the Commission with the external audit firms is based on standard public procurement procedures following the provisions of the Financial Regulation and Regulation 45/2001.

*According to the contract between the Commission and the external audit firms "any personal data included in or relating to the Contract, including its execution shall be processed pursuant to 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. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the Directorate-General or agency purchasing the service via a specific contract without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in application of Union law. The Contractor shall have the right of access to his personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his personal data, he should address them to the person mentioned under point I.7. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.*

*Where the Contract requires the processing of personal data, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.*

*The data shall be confidential within the meaning of Regulation 45/2001 of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.*

*The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risk inherent in the processing and to the nature of the personal data concerned in order to:*

*a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:*

*aa) unauthorised reading, copying, alteration or removal of storage media;*

*ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;*

*ac) unauthorised persons from using data-processing system can access only the personal data to which their access right refers;*

*b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;*

*c) record which personal data have been communicated, when and to whom;*

- d) ensure that personal data being processed on behalf of the third parties can be processed only in the manner prescribed by the contracting institution or body;*
- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;*
- f) design its organisational structure in such a way that it meets data protection requirements."*

**16. The documents with the internal administrative decision(s), or equivalent, to adopt the International Standards on Auditing, or equivalent, for the conduct of the external financial audits of the Research DGs.**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

**17. The documents assessing the professional capabilities of the external audit Unit of DG CONNECT's (former INFSO) (former 0.2 and S.5 Units) to conduct audits in accordance to the International Standards on Auditing, or equivalent.**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

**18. The documents assessing the professional capabilities of the R.4 Compliance DG CONNECT Unit to conduct audits in accordance to the International Standards on Auditing, or equivalent.**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

**19. The documents establishing that the signatories of the audit reports of the 0.2, S.5 DG INFSO's Units, and the R.4 DG CONNECT Unit are qualified Auditors (hence they are entitled to sign audit reports according to the standards), or equivalent.**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

Please note that in accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the position above.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission  
Secretary-General  
Transparency Unit SG-B-4  
BERL 5/327  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

(eSigned)  
Robert Madelin