



EUROPEAN COMMISSION
INTERNAL AUDIT SERVICE

Horizontal Affairs and Audit in EU Agencies
Director

Brussels, 7 August 2013

Sent by mail to: [ask+request-573-
xxxxxxx@xxxxxxx.xxx](mailto:ask+request-573-xxxxxxx@xxxxxxx.xxx)

Subject: Your application for access to documents – Ref GestDem No 2013/3889

Dear Mr Nicholson,

We refer to your e-mail dated 24/07/2013 in which you make a request for access to documents and which was registered on 24/07/2013 under the above mentioned reference number.

1. You have asked whether IAS acts as internal auditor of the European Union Agency for Fundamental Rights (FRA) or only as external auditor.

The European Union Agency for Fundamental Rights falls into the category of bodies set up under the TFEU or the Euratom Treaty which have legal personality and receive contributions charged to the EU budget. It is therefore subject to Article 208 of *Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002*

(available in the Official Journal L298 OF 26/10/2012; accessible at

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:298:FULL:EN:PDF>)

Article 208(3) of this Regulation provides that the Commission's internal auditor shall exercise the same powers over the bodies referred to in paragraph 1 (of the same article) as those exercised in respect of the Commission. As a consequence, the Internal Auditor of the European Commission, who is Director General of the Internal Audit Service, acts as the **internal auditor** of FRA.

Article 208(4) of the same Regulation provides that an independent external auditor shall verify that the annual accounts of each of the bodies referred to in paragraph 1 (of the same article) properly present the income, expenditure and financial position of the relevant body prior to the consolidation in the Commission's final accounts. As regards FRA, the European Court of Auditors acts as **external auditor** and prepares a Specific Annual Report in line with the requirements of Article 287(1) TFEU.

2. You have asked the IAS point of view on the validity of certain purchase orders published by FRA (the full list of documents you refer to is available at the following links http://www.asktheeu.org/en/request/tender_file_for_provision_of_leg, http://www.asktheeu.org/en/request/537/response/1870/attach/13/2012_09_24_purchase_order.pdf and http://www.asktheeu.org/en/request/tender_file_for_provision_of_leg_2).

The above mentioned documents have not been examined as part of any audit engagement undertaken by IAS. Therefore, IAS is not in a position to provide a point of view as regards the validity of the documents or the legality and regularity of the underlying transactions.

Moreover, the part of your request in which you ask for a point of view of IAS is out of the scope of the *Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents*, which refers only to access to documents held by the Commission, namely documents drawn up or received by it and in its possession.

3. You have requested information on legislation for contracting matters that is applicable at FRA.

The legislation applicable to FRA is:

- Financial Rules applicable to the budget of the European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007 of 15 February 2007 on the framework Financial Regulation for the bodies referred to in Article 185 of the Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the budget of the European Communities as amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006

http://fra.europa.eu/sites/default/files/fra_uploads/41-financereg.pdf

- Management Board decision laying down detailed rules for the implementation of the Financial Rules applicable to the budget of the European Union Agency for Fundamental Rights

http://fra.europa.eu/sites/default/files/fra_uploads/868-Implementing_Rules.pdf

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

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-5
BERL 5/327
B-1049 Bruxelles

or by email to: xxxxxxxxxx@xx.xxxxxx.xx

Agnieszka Kazmierczak