



Re: Request for documents, Regulation No 1049/2001 

ECA-INFO [REDACTED]

Sent by: **Aidas PALUBINSKAS**

Cc: eca-info

23/07/2012 12:53

Dear [REDACTED]

Thank you for your request. Unfortunatley, the previous email you sent to euraud@eca.europa.eu does not appear in the mailbox's inbox,,deleted items or archive folders. That mailbox is no longer used, and no longer appears on the ECA website as a contact email for the European Court of Auditors.

Now that we have your request via a valid email address, we will put things in motion to see how we can help you.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear Madam/Sir, I refer to telephone conversati...

23/07/2012 11:57:13

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 23/07/2012 11:57
Subject: Request for documents, Regulation No 1049/2001

Dear Madam/Sir,

I refer to telephone conversation with Ms. Klara Bonometti on 19/7/2012 and a telephone conversation with a Court official earlier today regarding the matter in subject.

You will find below an email dispatched on 25 June 2012 requesting access to documents the Court has drawn up.

Yours sincerely,

[REDACTED]

----- Forwarded message -----

From: [REDACTED]
Date: Mon, Jun 25, 2012 at 5:09 PM
Subject: Request for documents, Regulation No 1049/2001
To: euraud@eca.europa.eu

Dear Madam/Sir,

This email kindly requests by the European Court of Auditors – ECA the provision of copies of documents or excerpts thereof, as the case may be, according to Regulation No 1049/2001 and the ECA Decision No 12/2005 (OJ C 67/1, 20/3/2009) – the Decision.

1. Context of the request

All requested documents concern OLAF's administrative investigations.

1.1 OLAF's power to conduct interviews in external investigations

Regulation No 1073/99 article 4(2)§2 in conjunction with article 4(6)(a), provides essentially for the “*taking of statements*” or “*interviews*” in OLAF's *internal investigations*. There is no provision of the “*taking of statements*” or “*interviews*” in OLAF's *external investigations* in Regulation No 1073/99. Similarly, Regulations No 2988/95 and No 2185/96 do not provide for the “*taking of statements*” or “*interviews*” or “*asking oral explanations*” or their equivalent. It appears, therefore, that OLAF is not duly empowered to “*take statements*” or “*conduct interviews*” or “*ask for oral explanations*” in *external investigations*

Article 7(1) of Regulation No 2185/96 provides for (my emphasis).

They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

This provides a legal basis for OLAF to collect copies of documents, but not necessarily copies of documents containing *personal data*.

Examples of legal provisions expressly authorising the Commission officials for the “*taking of statements*” from individuals, or its equivalent, include Article 19 of Regulation No 1/2003, Article 11(2.e) of Regulation No 139/2004, and Article 23(c) of Regulation No 513/2011. The EU Legislature has purposefully drafted legislation using precise, clear and unambiguous language. Otherwise, not only those subject to could not adjust their behavior in order to comply with the legislation, but also directly undermine *legal certainty*.

Consequently, it appears that OLAF is not duly empowered to conduct interviews in *external investigations*.

In turn, this gives rise to the question as to what exactly is legal basis under which OLAF has been conducting interviews of a *person concerned* (a term found in OLAF's Manual of Operations that was in force until 31/1/2012), which is a person suspected of having participated in fraudulent activities harming the financial interests of the Community, necessarily entails *personal data processing*.

1.2 Proposed amendment of Regulation No 1073/99

I refer to the document dated 17 March 2011, COM(2011) 135 final, 2006/0084 (COD) Amended Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999 SEC(2011) 343 final, and in particular the following recitals (my emphasis)

(3) The courses of action which may be taken by the Office in external investigations

should be clarified where legal uncertainties have been found in the existing system and should be strengthened where only more effective action by the Office can ensure that reliable external investigations are conducted.

(10) It is necessary, in the interests of legal certainty, to clarify the procedural guarantees applicable to investigations conducted by the Office. The clarification of the procedural guarantees should take into account the administrative nature of the Office's investigations

One wonders as to what exactly has been the starting point of the proposed amendment for interviews in *external investigations* .


2. Request for documents

As provided for in Regulation No 1049/2001 and the ECA Decision No 12/2005 (OJ C 67/1, 20/3/2009), it is hereby kindly requested that ECA provide me with the following documents or excerpts thereof, as the case may be:

- R1. The documents setting out and analyzing the legal uncertainties in the existing system
- R2. The documents setting out and analyzing how the proposed amendment of Regulation No 1073/99 will improve the legal certainty in general and the procedural guarantees in particular
- R3. The ECA analysis of the legal basis of OLAF's power to conduct interviews in external investigations s under the provisions of Regulation No 1073/99
- R4. Referring to article 7a(2) of the proposed amendment, what has been the ECA legal analysis for OLAF, apparently wide powers, to interview in external investigations persons not expressly referred to in Regulation Regulations No 2988/95 and No 2185/96
- R5. The document(s), if any, setting out a legal analysis of OLAF's proper authorization to conduct interviews of natural persons in external investigations
- R6. The document(s), if any, setting out a legal analysis of OLAF's conduct of interviews of natural persons in external investigations in Commission's offices (where National Law is not applicable) in relation to (i) the procedural safeguards afforded to the said persons by the substantial body of national Laws regarding Administrative Investigations (e.g. Rules of Evidence) against (ii) the near total lack thereof in EU Legislation concerning OLAF's administrative investigations

For documents held by the ECA, but drawn by other parties, it is expected that ECA will provide me with the information stipulated in Article 4(5) of the aforementioned Decision.

Your attention is drawn that I am not requesting ECA Opinion No 6/2011 published in OJ C 254/1 of 30/8/2011, but more "specialized" documents or excerpts thereof.

My preference is that the ECA dispatches the requested documents via email to the address "


I remain at your disposal for any additional information or clarification the Commission may find useful for clarifying aspects of the requests herein.

Yours sincerely,

A large, solid black rectangular redaction mark covering the signature area.



Re: Regulation No 1049/2001, request for documents, resubmission to another Court email address

ECA-INFO to: [REDACTED]
Sent by: **Damijan FISER**
Cc: **European Court of Auditors PRESS**

09/08/2012 14:08

Dear [REDACTED]

We acknowledge the receipt of your two requests for documents of the Court of Auditors (hereinafter referred to as "the ECA") sent by e-mail on 23 July 2012. Please find below our replies.

Your first request concerns ECA Data Processing Operation No 281 Rural Development Support to Young Farmers.

Request 1a):

You asked the Court of Auditors to grant you access to documents that ECA has drawn up in order to comply with Article 10(6) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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 (OJ L 8, 12.1.2001, p. 1).

Reply 1a):

The ECA is a recipient of personal data from other organisations which are subject to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

Pursuant to respective national law implementing Directive 95/46/EC, the above-mentioned organisations (e.g. managing authorities in the Member States) collect personal data and transfer them to the ECA. Therefore, in that context, the ECA is not subject to Article 10(6) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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 (OJ L 8, 12.1.2001, p. 1). That provision requires the European Data Protection Supervisor to determine the conditions under which a personal number or other identifier of general application may be processed by EU institutions. The ECA has not adopted any document in that connection.

Request 1b):

The second part of your first request refers to the applicability of Articles 5, 12, 25 and 27 of Regulation (EC) No 45/2001 and you ask for documents that might have been drawn up by the ECA in this respect. In this context you also wish to know the manner in which the ECA complied with Article 12 of ECA Decision No. 11/2012 adopting implementing rules concerning the Data Protection Officer pursuant to Article 24(8) of Regulation (EC) No 45/2001.

Reply 1b):

Notification 281 is a Notification to the Data Protection Officer (Article 25 of Regulation (EC) No 45/2001) and not a Prior Checking to the EDPS (Article 27 of Regulation (EC) No 45/2001), as processing of the personal data during the audit does not present a specific risk to the rights and freedoms of the data subjects. As mentioned above, for audit data obtained from other organisations, the ECA is considered as a recipient through a transfer. It is the organisation which collected the personal data that must inform the data subject of its rights, the possible recipients of the data, the purpose of the treatment and thus is responsible for sending the data privacy statement to the data subjects. Therefore, in that context, the ECA is not subject to Article 12 of Regulation (EC) No 45/2001, and Article 12 of the ECA Decision No. 11/2012 is not applicable either. Article 5(a) of Regulation (EC) No 45/2001 which provides that "personal data may be processed only if processing

is necessary for the performance of a task carried out in the public interest on the basis of the Treaties [...] is a specific provision to Article 287 TFEU which itself is a sufficient legal basis for the processing of personal data by the ECA in the framework of its audit tasks. Therefore, the ECA does not need to adopt any documents in order to comply with those provisions.

Request 2:

Your second request concerns a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF). You ask for unspecified documents in which the ECA analyses different aspects of this proposal related, in particular, to the legal certainty and external investigations. You also emphasise that you are not requesting ECA Opinion No. 6/2011 (C 254, 30.8.2011), but more "specialized" documents or excerpts thereof.

Reply 2:

Pursuant to Article 6 of Decision No. 12/2005 of 10 March 2005 regarding public access to Court of Auditors' documents "Applications for access to a document must be made [...] in a sufficiently precise manner to enable the Court of Auditors to identify the document" (C 96, 20.4.2005).

On the basis of the whole contents, we interpret your request as aiming at unspecific working documents in possession of the ECA which served as essential sources for ECA Opinion No. 6/2011 on the amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (Euratom) No 1074/1999.

We regret to inform you that, unless you sufficiently specify the documents you are requesting, so that we could assess them individually, the access to working documents of the ECA used for a drafting of its opinions, pursuant to Article 325(4) TFEU, is covered by the exception provided for in Article 4(4) of Decision No. 12/2005 which entitles the ECA to refuse access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the ECA, if disclosure of the document would compromise the Court of Auditors' decision-making process.

We draw your attention to the fact that, pursuant to Article 7 of Decision No. 12/2005, you may make a confirmatory application, within 15 working days of receiving its reply, and ask the ECA to reconsider its position.

We would like to thank you again for your interest in the work of the European Court of Auditors. Should you have any further questions, please don't hesitate contacting us again. You can also follow us on Twitter @EUAuditorsECA.

Damijan Fišer
ECA Info

[REDACTED] Dear Madam/Sir, You will find below a request f... 23/07/2012 14:38:59

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 23/07/2012 14:38
Subject: Regulation No 1049/2001, request for documents, resubmission to another Court email address

Dear Madam/Sir,

You will find below a request for documents under Regulation No 1049/2001, which was initially sent to the euraud@eca.europa.eu email Court address.

As the second email clarifies, the requested documents are those under the R2 and R3 requests. The requests under R1 and R4 are to be ignored.

Yours sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

----- Forwarded message -----

From: [REDACTED]
Date: Mon, Jul 16, 2012 at 5:51 PM
Subject: Regulation No 1049/2001, request for documents, partial withdrawal of the requests
To: auraud@eca.europa.eu

Dear Madam/Sir,

Further to my request for documents given below, this is to withdraw my request for documents under R1 and R4. In other words, the Court is to consider my requests concerned with the Data Processing Operation No 281 *Rural Development Support to Young Farmers only*.

I apologize for any inconvenience this may have caused.

Yours sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

On Sun, Jul 15, 2012 at 1:04 PM, [REDACTED] wrote:

Dear Madam/Sir,

This email kindly requests by the European Court of Auditors – ECA the provision of copies of documents or excerpts thereof, as the case may be, according to Regulation No 1049/2001 and the ECA Decision No 12/2005 (OJ C 67/1, 20/3/2009) – the Decision.

1. Context of the requests

The requested documents concern the compliance of the ECA with the provisions of Regulation No 45/2001 – *the Regulation* .

This section sets out the context of the requests herein. The context is described in terms of documents drawn up by the ECA and Regulations. Emphasis has been added where appropriate to clarify the documents requested.

1.1 ECA Data Processing Operations

This section lists several data processing notifications pursuant to Articles 25 of *the Regulation* found at the *ECA Register* , document located in link http://eca.europa.eu/portal/page/portal/DPO/Products/P_register/ECA-Inventory20110817-Internet.pdf (last checked on 15/7/2012).

1. Processing Operation No 18 of 31/01/2007

OLIVE GEOGRAPHICAL INFORMATION SYSTEM (GIS)

“Traitement de données personnelles des principales entités intervenantes dans la gestion du régime d'aide a la production d'huile d'olive, notamment: administrations nationales et régionales compétentes pour la gestion, le paiement et le contrôle ainsi que les oléiculteurs, les organisations de producteurs et leurs unions, les moulins”

2. Processing Operation No 38 of 19/04/2007

Statement of assurance (DAS)

- Selecting beneficiaries;
- Verification of the declarations and eligibility criteria

3. Processing Operation No 57 of 13/06/2007

Direct coupled payments

Processing of personal data of beneficiaries of coupled production aids according to Titel IV of Council Reg. 1782/2003

4. Processing Operation No 75 of 28/09/2007

Audit of salaries, allowances and pensions for staff employed (or formerly employed) by European Institutions

Audit of documents which serve as evidence for the grade/step and the entitlement to other allowances, e.g. latest decision on promotion, certificate of marriage, children's schooling certificates. The documents are asked from the institution by which the individual staff is employed. Audit findings are communicated to this institution. Data falling under article 27 are not treated.

5. Processing Operation No 78 of 07/11/2007

Audit on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts

Part of the agricultural expenditure includes payments for goods exported outside of the European Union. Payments as such are done by paying agencies, however monitoring is applied on exports (Regulation (EC) No. 386/90). The ECA auditors analyse accounting data, make selections and review customs and commercial documents. The data used includes details of payments to beneficiaries.

6. Processing Operation No 107 of 05/12/2007

The system of milk quotas in the new Member States

Auditing quotas allocated to milk producers, their transfers, conversions and quantities marketed

7. Processing Operation No 166 of 14/04/2010

Management of personal information (staff, third parties, users,...)in SAP

*As central financial system of the Council, SAP is used for the following processes :-
Contract management- Purchasing- Budget management- Financial accounting*

.....

8. Processing Operation No 214 of 09/07/2009

Performance Audit of the Adequacy and Effectiveness of Selected FP6 Instruments

The audit procedures defined included surveys, testing at project level and reviews of studies and reports. Throughout the audit, data contained in several

Commissions' databases were used. Furthermore, the audit involved the review of documentation prepared by or containing information about individuals.

9. Processing Operation No 215 of 15/07/2009

Effectiveness of the Design Studies and Construction of New Infrastructures support schemes under the Sixth Framework Programme

The audit work included an analysis of the legal basis of the RI activity area and DS and CNI support schemes, file reviews and interviews at the Commission, interviews at the European Investment Bank, interviews with representatives of European research organisations and representatives of research ministries in 8 Member States (Belgium, Czech Republic, Germany, Italy, the Netherlands, Poland, Sweden, and United Kingdom). Furthermore the Court carried out on-site audits of projects and an online survey of unsuccessful participants.

10. Processing Operation No 224 of 05/01/2010

Audit on performance of OLAF investigations

Audit of documents gathered by OLAF in the framework of its investigations

11. Processing Operation No 270 of 25/01/2011

Performance Audit: Leonardo da Vinci programme

An assessing whether the design and management of the Lifelong Learning Programme's Leonardo da Vinci mobility scheme is likely to lead to effective results.

The aforementioned 11 notifications will be referred to as **the notifications**

1.2 ECA Data Processing Operation No 281 Rural Development Support to Young Farmers

10) Data fields(s) of Data Subjects

Name; address; fiscal and other administrative numbers used by the managing authorities in the Member-States; references, amounts and dates of: Applications for support, Contracts, Payment claims,

11) Recipient(s) of the Processing to whom the data might be disclosed

The Members and Cabinet staff as well as officials of the Court of Auditors concerned with the review, officials concerned of the European Commission (e.g. DG AGRI, especially unit J.2 and hierarchy), the authorities of the

Member States concerned (e.g. coordination body, paying agency)

14) Specify which procedures have been implemented to guarantee the data subjects rights (access; correct; lock; erase; opposition) as specified in Articles 13 - 19 of the Regulation.

*When requested **the personal data included can be retrieved from the reports and audit files.** However as the **applications and other supporting documents obtained are drawn up at the National or Commission level.** Correction (if necessary) should be performed by the level concerned.*

1.3 ECA Decision No. 11/2012 of 1/2/2012

Article 12 Data Subjects

*1. Any **natural person whose personal data is processed at the Court will be informed of the processing in compliance with articles 11 and 12 of the Regulation before or at the moment the data is collected.***

2. Request for documents

As provided for in Regulation No 1049/2001 and the ECA Decision No 12/2005 (OJ C 67/1, 20/3/2009), it is hereby kindly requested that ECA provide me with the following documents or excerpts thereof, as the case may be:

- **R1.** The document(s), if any, the ECA has drawn up in relation to the aforementioned 11 notifications, including (but not limited to) the documents drawn up by (i) the relevant **ECA data controllers** (within the meaning of Regulation No 45/2001), (ii) the Legal Services of the ECA, (iii) the documents ECA has been providing *data subjects* pursuant to the provisions of Articles 11(1) and 12(1) of the Regulation (e.g. the *privacy statement*)
- **R2.** Given that the '**fiscal and administrative numbers**' referred to in the prior notification No 281 '*Rural Development Support to Young Farmers*' are subject to the provisions of Article 10(6) of the Regulation '*6. The European Data Protection Supervisor shall determine the conditions under which a personal number or other identifier of general application may be processed by a Community institution or body*', the document(s), if any, the ECA has drawn up to comply with that provision, including those informing the EDPS about this particular feature of *personal data processing*.
- **R3.** Referring to the prior notification Operation No 281 *Rural Development Support to Young Farmers*, the document(s), if any, the ECA has drawn up in connection with:
 - Informing *data subjects* according to the provisions of Article 12(1) of the Regulation
 - The ECA **data controller** dispatched to the ECA Data Protection Officer (taking into account that prior to the formal establishment of that official position, according to the EDPS the entire Institution is to be considered as the *data controller*), and in particular in compliance

to the provisions of Articles 25 and 27 of *the Regulation* , beyond the notification itself.

- The transfer *within* the ECA of *personal data* from *third parties* (e.g. DG Agriculture, Member States) and in particular compliance with Article 12(1) of *the Regulation* .
- The transfer of *personal data from ECA to third parties* (e.g. DG Agriculture, Member States), and in particular compliance with Article 12(1) of *the Regulation* .
- Compliance with the Article 12 Data with the ECA Decision No. 11/2012 of 1/2/2012, and in particular advising the *data subjects* about the ECA *personal data processing*
- Compliance with the provision of Article 5 of *the Regulation*
- **R4. Referring to the prior notification No 214 'Performance Audit of the Adequacy and Effectiveness of Selected FP6 Instruments' and in particular the personal data processing operations 'Throughout the audit, data contained in several Commissions' databases were used. Furthermore, the audit involved the review of documentation prepared by or containing information about individuals' , the documents the ECA drew up in connection with:**
 - Specifying what *types* of *personal data* were to be extracted from the Commission's database and subsequently were transferred to the ECA
 - Specifying what *types* of documents containing *personal data* were to be copied by the Commission services and subsequently were transferred to the ECA
 - Containing special provisions for the treatment and transfer of researchers' timesheets to the ECA
 - Containing special provisions for the treatment and transfer of freelance researchers (e.g. independent economic operators invoicing the final research grant beneficiary, referred to as *in-house consultants* in the FP6 Financial Guides) of invoices and services agreements
 - Informing *data subjects* according to the provisions of Article 12(1) of *the Regulation*, particularly in adherence to Article 12 of the ECA Decision No 11/2012 of 1/2/2012
 - The ECA *data controllers* notification to the the ECA Data Protection Officer, and in particular compliance with the provisions of Articles 7, 12(1), 13, 25 and 27 of *the Regulation* .

It is clarified that

- the requested documents ***do not concern*** those found at the ECA public website
- in case the ECA finds a document falls under the exceptions set forth in Article 4 of Regulation No 1049/2001, it is expected that ECA will release the parts of the documents not falling under those exceptions. On the other hand, as all requested documents concern ECA's compliance with *the Regulation* it will be difficult see how on may argue that there are documents concerned with compliance with a legal provision which are subject to those exemptions.

My preference is that the Court dispatches the requested documents via email to the address [REDACTED]

I remain at your disposal for any additional information or clarification the Court may find useful for clarifying aspects of the requests herein.

Yours sincerely,

[REDACTED]
[REDACTED]
[REDACTED]



Re: Request for documents pursuant to Decision 12/2005

ECA-INFO to: [REDACTED]

19/11/2012 16:53

Sent by: **Aidas PALUBINSKAS**

Cc: eca-info

Dear [REDACTED]

Thank you for your request. We will review it to see if we can fulfill your request.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear Madam, dear Sir, In accordance...

19/11/2012 15:39:41

From:

To: [REDACTED]
eca-info@eca.europa.eu

Date: 19/11/2012 15:39

Subject: Request for documents pursuant to Decision 12/2005

Dear Madam, dear Sir,

In accordance with the Court's Decision No 12/2005, published in the Official Journal C 67/1, 20/3/2009, this is an application for the provision of copies of documents drawn up by the Court.

All requested documents concern the Court's auditing of the European Commission FP6 and FP7 interim and final payments, as shown in the Court's 2011 Annual Report, and specifically as published in the Official Journal on 12/11/2012 on page C 344/201.

The table in the aforementioned page C341/201 states that in 2008, 2009, 2010 and 2011 the Court examined 124, 226, 73 and 86 interim/final payments respectively.

The applicant refers to the Court's Financial and Compliance Audit Manual of 2012, and in particular in the following sections

2.6 DRAWING UP THE AUDIT PLANNING MEMORANDUM AND AUDIT PROGRAMME

3.2.4 Documenting the results of audit tests

4.4.8 Communication with those charged with governance

It is my understanding that the Court has drawn up internal documents following the guidelines and directions set out in the above sections of the Audit Manual, which was applicable at the audits of year 2008-2011. For the purposes of the present application those internal documents will be referred to as the *Audit Programme* , the *Audit Tests Results* and the *Communications to the Management*.

The applicant kindly request that the Court provide him with copies of the following documents:

1. FP6 and older Programmes, year 2008, interim/final payments, sample of 124 transactions

- R1: The part(s) of the *Audit Programme* concerning the 124 transactions
- R2: The part(s) of the *Audit Test Results* , concerning the 124 transactions
- R3: The part(s) of the *Communications to the Management* concerning the 124 transactions

2. FP7, FP6 and older Programmes, year 2009, interim/final payments, sample of 226 transactions

- R4: The part(s) of the *Audit Programme* concerning the 226 transactions
- R5: The part(s) of the *Audit Test Results* , concerning the 226 transactions
- R6: The part(s) of the *Communications to the Management* concerning the 226 transactions

3. FP7, and FP6, year 2010, interim/final payments, sample of 73 transactions

- R7: The part(s) of the *Audit Programme* concerning the 73 transactions
- R8: The part(s) of the *Audit Test Results* , concerning the 73 transactions
- R9: The part(s) of the *Communications to the Management* concerning the 73 transactions

4. FP7, and FP6, year 2011, interim/final payments, sample of 86 transactions

- R10: The part(s) of the *Audit Programme* concerning the 86 transactions
- R11: The part(s) of the *Audit Test Results* , concerning the 86 transactions
- R912 The part(s) of the *Communications to the Management* concerning the 73 transactions

In case the Court decides to refuse access altogether, or grants partial access to the requested documents, the applicant wishes to note that he is primarily interested in obtaining the part(s) of the documents setting out

- How the Court adopted a specific sampling methodology
- The type of documents the Court has had access at the audits, on which documents the Court relied on to establish its findings regarding the interim/final payments at issue and the regularity of the transactions

I remain at your disposal for any additional information or clarification you may require.

The applicant would appreciate if the Court acknowledges the receipt of the present application.

Yours faithfully,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



Re: Request for documents pursuant to Decision 12/2005

ECA-INFO to: [REDACTED]

22/11/2012 14:31

Sent by: **Aidas PALUBINSKAS**

Cc: eca-info

Dear [REDACTED]

After looking at your request, we are unable to provide internal documents regarding the audits you mention below. This is based on article 4.3 of the Court's decision on access to documents.

However, we are able to provide the questionnaires that are used in the audit process that might be useful for the primary interest you mentioned below. Please find them attached.

Also, the Court's audit methodology is available publicly at:
<http://eca.europa.eu/portal/page/portal/audit>

Kindest regards,

Aidas Palubinskas



Audit Questionnaire Research.doc Audit Questionnaire DAS 2011- Annex I (mission on the spot).docx

[REDACTED] Dear Madam, dear Sir, In accordance...

19/11/2012 15:39:41

From:

To: [REDACTED]
eca-info@eca.europa.eu

Date: 19/11/2012 15:39

Subject: Request for documents pursuant to Decision 12/2005

Dear Madam, dear Sir,

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The table in the aforementioned page C341/201 states that in 2008, 2009, 2010 and 2011 the Court examined 124, 226, 73 and 86 interim/final payments respectively.

The applicant refers to the Court's Financial and Compliance Audit Manual of 2012, and in particular in the following sections

2.6 DRAWING UP THE AUDIT PLANNING MEMORANDUM AND AUDIT PROGRAMME

3.2.4 Documenting the results of audit tests

4.4.8 Communication with those charged with governance

It is my understanding that the Court has drawn up internal documents following the guidelines and directions set out in the above sections of the Audit Manual, which was applicable at the audits of year 2008-2011. For the purposes of the present application those internal documents will be referred to as the *Audit Programme*, the *Audit Tests Results* and the *Communications to the Management*.

The applicant kindly request that the Court provide him with copies of the following documents:

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- R11: The part(s) of the *Audit Test Results* , concerning the 86 transactions
- R912 The part(s) of the *Communications to the Management* concerning the 73 transactions

In case the Court decides to refuse access altogether, or grants partial access to the requested documents, the applicant wishes to note that he is primarily interested in obtaining the part(s) of the documents setting out

- How the Court adopted a specific sampling methodology
- The type of documents the Court has had access at the audits, on which documents the Court relied on to establish its findings regarding the interim/final payments at issue and the regularity of the transactions

I remain at your disposal for any additional information or clarification you may require.

The applicant would appreciate if the Court acknowledges the receipt of the present application.

Yours faithfully,

[REDACTED]



Re: Request for documents pursuant to Decision 12/2005, reply not compliant with Decision 12/2005

ECA-INFO to: [REDACTED]
Sent by: Aidas PALUBINSKAS

28/11/2012 09:37

Cc: eca-info
Bcc: [REDACTED]

Dear [REDACTED]

I acknowledge receipt of your e-mail of 22/11/2012 concerning your request for access to certain documents of the Court of Auditors, first submitted on 19/11/2012. In accordance with Article 6 of Decision No 12/2005, you will, in principle, receive an answer to your request within 15 working days following your *initial* application, i.e. by 10/12/2012. Should it not be possible to answer within that time limit, taking account of the fact that your request concerns several hundred transactions, we may have to extend the time-limit by 15 working days. In that case, we will notify you in advance (i.e. before 10/12/2012).

Yours sincerely,

Aidas Palubinskas

[REDACTED] Dear Mr. Palubinskas, First of all, I wo...

22/11/2012 16:01:32

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 22/11/2012 16:01
Subject: Request for documents pursuant to Decision 12/2005, reply not compliant with Decision 12/2005

Dear Mr. Palubinskas,

First of all, I would like to thank the Court for its speedy handling of my initial application.

However, not only the Court's initial reply gives rise to further questions, but it also does not comply with the Court's Decision regarding the public's access to documents.

As preliminary observation, referring the applicant to the Court's audit methodology is not that much helpful. It was obvious from the initial application that the undersigned was somewhat familiar with the the Court's audit methodology.

1. Non-compliance of the reply with article 6(3), failure to notify applicant of his right for a reconsideration request

The aforesaid article provides for:

An application for access to a document shall be handled promptly. Within 15 working days from registration of the application, the Court shall either grant access to the document requested and provide access in accordance with Article 9 or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to ask the Court to reconsider its position in accordance with Article 7.

It is obvious that the initial reply has not provided what is prescribed in terms of "*inform the applicant of his or her right to ask the Court to reconsider its position in accordance with Article 7*".

2. Non-compliance of the reply with article 6(3), failure to inform the applicant of the reasons of the total refusal

It is manifestly evident that the Court's answer is totally silent about the reason(s) of the total refusal, other than merely applying the whole of article 4(3), with no reference as to which one the Court relied on.

3. Doubts on a justified reliance on the provisions of article 4(3)

That article provides for:

The Court shall refuse access to a document where disclosure would undermine the protection of: commercial interests of a natural or legal person, including

- intellectual property,
- court proceedings and legal advice,
- inspections, investigations and audits

Apparently, the Court relied on the provisions on "*undermining the protection of audits* "

The settled case law of the EU courts is that:

- the risks of undermining the protected interest must be real and foreseeable and not merely hypothetical
- the Institution is obliged to examine each single document falling under the scope of the application and provide the applicant with the justification of the reason(s) of partial or total refusal

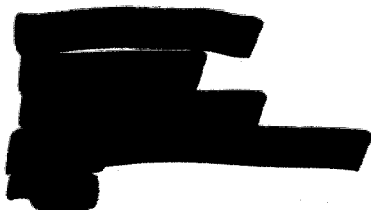
The Court has not stated, in specific and concrete terms, how the purposes of the audits would have been undermined. In other words, the Court has not explained, even briefly, what will be the adverse consequences of releasing the requested documents

The applicant requested 12 different documents. The Court did not examine each of the request in concrete terms. It summarily found that article 4(3) applies, without even stating which of the article 4(3) three different provisions the Court relied on.

4. Conclusions

The applicant respectfully and kindly requests that the Court provide him with an *initial answer* compliant with the Decision No 12/2005, taking into account the observations laid down above.

Yours sincerely,

A large, solid black rectangular redaction mark covering the signature area.

On 22 November 2012 14:31, <eca-info@eca.europa.eu> wrote:

Dear [REDACTED]

After looking at your request, we are unable to provide internal documents regarding the audits you mention below. This is based on article 4.3 of the Court's decision on access to documents.

However, we are able to provide the questionnaires that are used in the audit process that might be useful for the primary interest you mentioned below. Please find them attached.

Also, the Court's audit methodology is available publicly at:
<http://eca.europa.eu/portal/page/portal/audit>

Kindest regards,

Aidas Palubinskas

From: [REDACTED]

To: eca-info@eca.europa.eu

Date: 19/11/2012 15:39

Subject: Request for documents pursuant to Decision 12/2005

Dear Madam, dear Sir,

In accordance with the Court's Decision No 12/2005, published in the Official Journal C 67/1, 20/3/2009, this is an application for the provision of copies of documents drawn up by the Court.

All requested documents concern the Court's auditing of the European Commission FP6 and FP7 interim and final payments, as shown in the Court's 2011 Annual Report, and specifically as published in the Official Journal on 12/11/2012 on page C 344/201.

The table in the aforementioned page C341/201 states that in 2008, 2009, 2010 and 2011 the Court examined 124, 226, 73 and 86 interim/final payments respectively.

The applicant refers to the Court's Financial and Compliance Audit Manual of 2012, and in particular in the following sections

2.6 DRAWING UP THE AUDIT PLANNING MEMORANDUM AND AUDIT PROGRAMME

3.2.4 Documenting the results of audit tests

4.4.8 Communication with those charged with governance

It is my understanding that the Court has drawn up internal documents following the guidelines and directions set out in the above sections of the Audit Manual, which was applicable at the audits of year 2008-2011. For the purposes of the present application those internal documents will be referred to as the *Audit Programme*, the *Audit Tests Results* and the *Communications to the Management*.

The applicant kindly request that the Court provide him with copies of the following documents:

1. FP6 and older Programmes, year 2008, interim/final payments, sample of 124 transactions

- R1: The part(s) of the *Audit Programme* concerning the 124 transactions
- R2: The part(s) of the *Audit Test Results*, concerning the 124 transactions
- R3: The part(s) of the *Communications to the Management* concerning the 124 transactions

2. FP7, FP6 and older Programmes, year 2009, interim/final payments, sample of 226 transactions

- R4: The part(s) of the *Audit Programme* concerning the 226 transactions
- R5: The part(s) of the *Audit Test Results*, concerning the 226 transactions

- R6: The part(s) of the *Communications to the Management* concerning the 226 transactions

3. FP7, and FP6, year 2010, interim/final payments, sample of 73 transactions

- R7: The part(s) of the *Audit Programme* concerning the 73 transactions
- R8: The part(s) of the *Audit Test Results* , concerning the 73 transactions
- R9: The part(s) of the *Communications to the Management* concerning the 73 transactions

4. FP7, and FP6, year 2011, interim/final payments, sample of 86 transactions

- R10: The part(s) of the *Audit Programme* concerning the 86 transactions
- R11: The part(s) of the *Audit Test Results* , concerning the 86 transactions
- R912 The part(s) of the *Communications to the Management* concerning the 73 transactions

In case the Court decides to refuse access altogether, or grants partial access to the requested documents, the applicant wishes to note that he is primarily interested in obtaining the part(s) of the documents setting out

- How the Court adopted a specific sampling methodology
- The type of documents the Court has had access at the audits, on which documents the Court relied on to establish its findings regarding the interim/final payments at issue and the regularity of the transactions

I remain at your disposal for any additional information or clarification you may require.

The applicant would appreciate if the Court acknowledges the receipt of the present application.

Yours faithfully,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



Re: Request for documents pursuant to Decision 12/2005, reply not compliant with Decision 12/2005

ECA-INFO to: [REDACTED]
Sent by: Damijan FISER

10/12/2012 17:02

Dear [REDACTED]

With reference to your application for access to documents pursuant to Decision No 12/2005, I would like to inform you that we are required to extend the time-limit for answering your request in accordance with Article 6 paragraph 4 of that Decision.

Your application concerns documents regarding more than 500 transactions. We are currently examining the documents with the view of providing you, through some examples, with information about the Court's audit in that area.

We are planning to reply to your application by the end of next week, i.e. by 21 December 2012.

Thank you for your understanding.

Yours sincerely,

Aidas Palubinskas

ECA Info

[REDACTED] Dear Mr. Palubinskas, First of all, I wo...

22/11/2012 16:01:32

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 22/11/2012 16:01
Subject: Request for documents pursuant to Decision 12/2005, reply not compliant with Decision 12/2005

Dear Mr. Palubinskas,

First of all, I would like to thank the Court for its speedy handling of my initial application.

However, not only the Court's initial reply gives rise to further questions, but it also does not comply with the Court's Decision regarding the public's access to documents.

As preliminary observation, referring the applicant to the Court's audit methodology is not that much helpful. It was obvious from the initial application that the undersigned was somewhat familiar with the the Court's audit methodology.

1. Non-compliance of the reply with article 6(3), failure to notify applicant of his right for a reconsideration request

The aforesaid article provides for:

An application for access to a document shall be handled promptly. Within 15 working days from registration of the application, the Court shall either grant access to the document requested and provide access in accordance with Article 9 or, in a

written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to ask the Court to reconsider its position in accordance with Article 7.

It is obvious that the initial reply has not provided what is prescribed in terms of "*inform the applicant of his or her right to ask the Court to reconsider its position in accordance with Article 7*".

2. Non-compliance of the reply with article 6(3), failure to inform the applicant of the reasons of the total refusal

It is manifestly evident that the Court's answer is totally silent about the reason(s) of the total refusal, other than merely applying the whole of article 4(3), with no reference as to which one the Court relied on.

3. Doubts on a justified reliance on the provisions of article 4(3)

That article provides for:

The Court shall refuse access to a document where disclosure would undermine the protection of: commercial interests of a natural or legal person, including

- intellectual property,
- court proceedings and legal advice,
- inspections, investigations and audits

Apparently, the Court relied on the provisions on "*undermining the protection of audits* "

The settled case law of the EU courts is that:

- the risks of undermining the protected interest must be real and foreseeable and not merely hypothetical
- the Institution is obliged to examine each single document falling under the scope of the application and provide the applicant with the justification of the reason(s) of partial or total refusal

The Court has not stated, in specific and concrete terms, how the purposes of the audits would have been undermined. In other words, the Court has not explained, even briefly, what will be the adverse consequences of releasing the requested documents

The applicant requested 12 different documents. The Court did not examine each of the request in concrete terms. It summarily found that article 4(3) applies, without even stating which of the article 4(3) three different provisions the Court relied on.

4. Conclusions

The applicant respectfully and kindly requests that the Court provide him with an *initial answer* compliant with the Decision No 12/2005, taking into account the observations laid down above.

Yours sincerely,





On 22 November 2012 14:31, <eca-info@eca.europa.eu> wrote:

Dear 


After looking at your request, we are unable to provide internal documents regarding the audits you mention below. This is based on article 4.3 of the Court's decision on access to documents.

However, we are able to provide the questionnaires that are used in the audit process that might be useful for the primary interest you mentioned below. Please find them attached.

Also, the Court's audit methodology is available publicly at:
<http://eca.europa.eu/portal/page/portal/audit>

Kindest regards,

Aidas Palubinskas

From: 
To: eca-info@eca.europa.eu
Date: 19/11/2012 15:39
Subject: Request for documents pursuant to Decision 12/2005

Dear Madam, dear Sir,

In accordance with the Court's Decision No 12/2005, published in the Official Journal C 67/1, 20/3/2009, this is an application for the provision of copies of documents drawn up by the Court.

All requested documents concern the Court's auditing of the European Commission FP6 and FP7 interim and final payments, as shown in the Court's 2011 Annual Report, and specifically as published in the Official Journal on 12/11/2012 on page C

344/201.

The table in the aforementioned page C341/201 states that in 2008, 2009, 2010 and 2011 the Court examined 124, 226, 73 and 86 interim/final payments respectively.

The applicant refers to the Court's Financial and Compliance Audit Manual of 2012, and in particular in the following sections

2.6 DRAWING UP THE AUDIT PLANNING MEMORANDUM AND AUDIT PROGRAMME

3.2.4 Documenting the results of audit tests

4.4.8 Communication with those charged with governance

It is my understanding that the Court has drawn up internal documents following the guidelines and directions set out in the above sections of the Audit Manual, which was applicable at the audits of year 2008-2011. For the purposes of the present application those internal documents will be referred to as the *Audit Programme*, the *Audit Tests Results* and the *Communications to the Management*.

The applicant kindly request that the Court provide him with copies of the following documents:

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- R2: The part(s) of the *Audit Test Results*, concerning the 124 transactions
- R3: The part(s) of the *Communications to the Management* concerning the 124 transactions

2. FP7, FP6 and older Programmes, year 2009, interim/final payments, sample of

226 transactions

- R4: The part(s) of the *Audit Programme* concerning the 226 transactions
- R5: The part(s) of the *Audit Test Results* , concerning the 226 transactions
- R6: The part(s) of the *Communications to the Management* concerning the 226 transactions

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- R7: The part(s) of the *Audit Programme* concerning the 73 transactions
- R8: The part(s) of the *Audit Test Results* , concerning the 73 transactions
- R9: The part(s) of the *Communications to the Management* concerning the 73 transactions

4. FP7, and FP6, year 2011, interim/final payments, sample of 86 transactions

- R10: The part(s) of the *Audit Programme* concerning the 86 transactions
- R11: The part(s) of the *Audit Test Results* , concerning the 86 transactions
- R912 The part(s) of the *Communications to the Management* concerning the 73 transactions

In case the Court decides to refuse access altogether, or grants partial access to the requested documents, the applicant wishes to note that he is primarily interested in obtaining the part(s) of the documents setting out

- How the Court adopted a specific sampling methodology
- The type of documents the Court has had access at the audits, on which documents the Court relied on to establish its findings regarding the interim/final payments at issue and the regularity of the transactions

I remain at your disposal for any additional information or clarification you may require.

The applicant would appreciate if the Court acknowledges the receipt of the present application.

Yours faithfully,

[Redacted signature]



Re: Request for documents pursuant to Decision 12/2005

ECA-INFO to: [REDACTED]

19/12/2012 14:06

Sent by: **Aidas PALUBINSKAS**

Cc: eca-info
[REDACTED]

Dear [REDACTED]

In your e-mail of 19 November 2012, you requested access to *Audit Programmes*, *Audit Test Results* and *Communications to the Management* concerning more than 509 transactions in the area of research and other internal policies examined by the Court of Auditors in the context of its Annual Reports 2008-2011. You further explained that you were primarily interested in obtaining the part(s) of the documents setting out how the Court adopted a specific sampling methodology and the type of documents to which the Court had access and on which it relied on to establish its findings.

We hope you will understand that it is not possible for us to provide you with detailed information concerning the audit of more than 500 transactions, comprising several thousand pages of documentation. We have therefore prepared a selection of documents for you, which are representative of the way the Court organizes and carries out its audit in the area which is of interest to you, and wish to give you some further explanations on the questions you mention as your primary interest.

As regards the sample testing of transactions in the area of research and internal policies, the *Audit Programmes*, to which you refer in your application, consist of questionnaires setting out in detail the various points our auditors have to examine. We have already sent you these audit questionnaires by e-mail of 22 November 2012.

These audit programmes/questionnaires do not explain the Court's sampling methodology and the specific application of that methodology to our audits in the area of research and internal policies, which you mention in your e-mail as one of your main areas of interest. In that respect, we can give you the following information:

The overall sample size for a policy group is determined on the basis of an initial combined risk assessment. In simplified terms, one can say that the higher the risks involved, the more samples will be examined. Once the sample size has been determined, the individual samples to be audited are selected using the "Monetary Unit Sampling" method. The transactions underlying the selected euros (using the average sampling interval) are subject to audit.

Further information on our audit sampling methodology is available in the Court's Financial and Compliance Audit Manual (<http://eca.europa.eu/portal/pls/portal/docs/1/14764740.PDF>), see in particular pages 42 (assurance model for establishing minimum sample size), 61 (audit sampling), 65 (explanation of monetary unit sampling) and 228 (designing audit procedures).

As regards, more specifically, the audit of research and internal policies, the preliminary risk assessment made in the context of the preparation of the Annual Report 2011 concluded that the inherent risk and the control risk were high. In that case, the Court's assurance model requires a random sample size of 150 payments.

As far as your application for access to documents concerns *Audit Test Results* and *Communications to the Management*, we regret to inform you that our audit observations, including our communication with the Commission and other auditees, fall under the exceptions laid down in Article 4, paragraph 1(b), paragraph 2 and the third indent of paragraph 3 of the Court of Auditor's Decision No 12/2005. Article 4, paragraph 2 of that Decision states, with reference to the Financial Regulation applicable to the general budget of the European Communities (Regulation No 1605/2002), that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations. In fact, Article 143, paragraph 2, of the Financial Regulation provides that the Court's audit observations "must remain confidential". The reason for this is not only that the Court's audit findings contain very detailed data about the natural and legal persons receiving

grants from the EU budget, but also that the findings made at that stage are preliminary and may be changed after further verification and clarification. Disclosing them to the public would give the impression that the Court has actually established the existence of certain errors or irregularities, although the findings may have been modified or even withdrawn at a later stage. Therefore, only the final observations of the Court, as described in its reports, are made public.

In this context, it must also be observed that the audit findings you would like to have access to, contain very specific and detailed information about the projects and the persons involved. That information constitutes personal data protected by REGULATION (EC) No 45/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2000 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. Furthermore, according to the Case law of the Court of Justice (see the judgment in case C-315/99 P *Ismeri v Court of Auditors*), the Court of Auditors may only name natural or legal persons in its reports under specific circumstances and after having given the persons concerned the right to a hearing. If the Court of Auditors were to disclose its preliminary audit observations, thus allowing to identify the persons involved, the principles set out by the Court of Justice would be circumvented.

Having examined a sample of the audit findings to which you refer, we consider that even partial access to those documents (Article 4, paragraph 6 of Decision No 12/2005) would not be a reasonable option in the present case. If all the specific information which may allow identifying the persons concerned and the observations subject to the exceptions referred to above were deleted from the documents, there would be virtually no useful information left.

Furthermore, as the results of the Court's audits are published in its reports, we consider that there is no overriding public interest, which would, in accordance with Article 4, paragraph 8 of Decision No 12/2005, allow the disclosure of the audit test results and related communications falling under the exceptions mentioned above.

However, as your e-mail shows that you have a general interest in the type of documents the Court relies on to establish its findings and the way those findings are communicated to the auditee, we send you, attached to this e-mail, the list of reference documents examined during our audits in the area of research and internal policies and the DAS Preliminary Finding form. We hope that these documents can be useful for you.

Finally, we would like to inform you that, insofar as your request for access to documents has been refused, you have the right to ask the Court to reconsider its position within 15 working days of receiving this e-mail (Article 7 of the Court's Decision No 12/2005).

Yours sincerely,

Aidas Palubinskas



TOC TEMPLATE_GRANTS.doc



Preliminay Findings Form-DAS_2011-OR.doc

Dear Mr. Palubinskas Thank you very...

10/12/2012 17:44:29

From:

To:

eca-info@eca.europa.eu

Date:

10/12/2012 17:44

Subject:

Request for documents pursuant to Decision 12/2005

Dear Mr. Palubinskas

Thank you very much for providing me with an update of the status of my application. The courtesy of the Court is very much appreciated.

Yours sincerely,

[REDACTED]



**Re: Confirmatory application, request for documents pursuant to
Decision 12/2005**

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: **eca-info**
[REDACTED]

10/01/2013 11:38

Dear [REDACTED]

I acknowledge receipt of your request for reconsideration, which I have forwarded to the President of the Court. In accordance with Article 8(2) of the Court's Decision No 12/2005, you will receive a reply to your request within 15 working days from registration of your request, i.e. by 31 January 2013. If it is necessary to extend the time limit in accordance with Article 8(3) of that Decision, you will be notified in advance.

Yours sincerely,

Aidas Palubinskas

Robert Henry Warren Bogle

Dear Mr. Palubinskas, Thank you for y...

10/01/2013 00:03:53

From: [REDACTED]
To: **eca-info@eca.europa.eu**
Date: **10/01/2013 00:03**
Subject: **Confirmatory application, request for documents pursuant to Decision 12/2005**

Dear Mr. Palubinskas,

Thank you for your email with the Court's initial reply to my request for documents.

You will find attached a scanned copy of a **confirmatory application**, pursuant to article 7 of Court's Decision No 12/2005, which is addressed to the President.

The original is to be dispatched by registered mail.

I would appreciate if the Court acknowledges the correct receipt of the present message, including the attachment.

Yours sincerely,

[REDACTED]

On 19 December 2012 14:06, <eca-info@eca.europa.eu> wrote:

Dear [REDACTED]

In your e-mail of 19 November 2012, you requested access to *Audit Programmes, Audit Test Results and Communications to the Management* concerning more than 509 transactions in the area of research and other internal policies examined by the Court of Auditors in the context of its Annual Reports 2008-2011. You further explained that you were primarily interested in obtaining the part(s) of the documents setting out how the Court adopted a specific sampling methodology and the type of documents to which the Court had access and on which it relied on to establish its findings.

We hope you will understand that it is not possible for us to provide you with detailed information concerning the audit of more than 500 transactions, comprising several thousand pages of documentation. We have therefore prepared a selection of documents for you, which are representative of the way the Court organizes and carries out its audit in the area which is of interest to you, and wish to give you some further explanations on the questions you mention as your primary interest.

As regards the sample testing of transactions in the area of research and internal policies, the *Audit Programmes*, to which you refer in your application, consist of questionnaires setting out in detail the various points our auditors have to examine. We have already sent you these audit questionnaires by e-mail of 22 November 2012.

These audit programmes/questionnaires do not explain the Court's sampling methodology and the specific application of that methodology to our audits in the area of research and internal policies, which you mention in your e-mail as one of your main areas of interest. In that respect, we can give you the following information:

The overall sample size for a policy group is determined on the basis of an initial combined risk assessment. In simplified terms, one can say that the higher the risks involved, the more samples will be examined. Once the sample size has been determined, the individual samples to be audited are selected using the "Monetary Unit Sampling" method. The transactions underlying the selected euros (using the average sampling interval) are subject to audit.

Further information on our audit sampling methodology is available in the Court's Financial and Compliance Audit Manual (<http://eca.europa.eu/portal/pls/portal/docs/1/14764740.PDF>), see in particular pages 42 (assurance model for establishing minimum sample size), 61 (audit sampling), 65 (explanation of monetary unit sampling) and 228 (designing audit procedures).

As regards, more specifically, the audit of research and internal policies, the preliminary risk assessment made in the context of the preparation of the Annual Report 2011 concluded that the inherent risk and the control risk were high. In that case, the Court's assurance model requires a random sample

size of 150 payments.

As far as your application for access to documents concerns *Audit Test Results* and *Communications to the Management*, we regret to inform you that our audit observations, including our communication with the Commission and other auditees, fall under the exceptions laid down in Article 4, paragraph 1(b), paragraph 2 and the third indent of paragraph 3 of the Court of Auditor's Decision No 12/2005. Article 4, paragraph 2 of that Decision states, with reference to the Financial Regulation applicable to the general budget of the European Communities (Regulation No 1605/2002), that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations. In fact, Article 143, paragraph 2, of the Financial Regulation provides that the Court's audit observations "must remain confidential". The reason for this is not only that the Court's audit findings contain very detailed data about the natural and legal persons receiving grants from the EU budget, but also that the findings made at that stage are preliminary and may be changed after further verification and clarification. Disclosing them to the public would give the impression that the Court has actually established the existence of certain errors or irregularities, although the findings may have been modified or even withdrawn at a later stage. Therefore, only the final observations of the Court, as described in its reports, are made public.

In this context, it must also be observed that the audit findings you would like to have access to, contain very specific and detailed information about the projects and the persons involved. That information constitutes personal data protected by REGULATION (EC) No 45/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2000 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. Furthermore, according to the Case law of the Court of Justice (see the judgment in case C-315/99 P *Ismeri v Court of Auditors*), the Court of Auditors may only name natural or legal persons in its reports under specific circumstances and after having given the persons concerned the right to a hearing. If the Court of Auditors were to disclose its preliminary audit observations, thus allowing to identify the persons involved, the principles set out by the Court of Justice would be circumvented.

Having examined a sample of the audit findings to which you refer, we consider that even partial access to those documents (Article 4, paragraph 6 of Decision No 12/2005) would not be a reasonable option in the present case. If all the specific information which may allow identifying the persons concerned and the observations subject to the exceptions referred to above were deleted from the documents, there would be virtually no useful information left.

Furthermore, as the results or the Court's audits are published in its reports, we consider that there is no overriding public interest, which would, in accordance with Article 4, paragraph 8 of Decision No 12/2005, allow the disclosure of the audit test results and related communications falling under the exceptions mentioned above.

However, as your e-mail shows that you have a general interest in the type of documents the Court relies on to establish its findings and the way those findings are communicated to the auditee, we send you, attached to this e-mail, the list of reference documents examined during our audits in the area of research and internal policies and the DAS Preliminary Finding form. We hope that these documents can be useful for you.

Finally, we would like to inform you that, insofar as your request for access to documents has been refused, you have the right to ask the Court to reconsider its position within 15 working days of receiving this e-mail (Article 7 of the Court's Decision No 12/2005).

Yours sincerely,

Aidas Palubinskas

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 10/12/2012 17:44
Subject: Request for documents pursuant to Decision 12/2005

Dear Mr. Palubinskas

Thank you very much for providing me with an update of the status of my application. The courtesy of the Court is very much appreciated.

Yours sincerely,

[REDACTED]

Disclaimer: If you have received this message in error, please contact the sender immediately.



**Re: Confirmatory application, request for documents pursuant to
Decision 12/2005**

ECA-INFO to: [REDACTED]

31/01/2013 11:14

Sent by: **Aidas PALUBINSKAS**

Cc: eca-info

Bcc: [REDACTED]

Dear [REDACTED]

With reference to your request for reconsideration of your application for access to documents, I would like to inform you that we have to extend the time-limit for answering to your request in accordance with Article 8 paragraph 3 of Decision No 12/2005. Although we appreciate that you have limited your request for access to documents to a certain number of transactions, it has not been possible to examine all the documents concerned yet in order to decide in how far access may be granted. As soon as that examination has been completed, and no later than 21 February 2013, you will receive the reply of the President of the Court of Auditors concerning your request.

Thank you for your understanding.

Yours sincerely,

Aidas Palubinskas

[REDACTED] Dear Mr. Palubinskas, Thank you for y...

10/01/2013 00:03:53

From: [REDACTED]

To: eca-info@eca.europa.eu

Date: 10/01/2013 00:03

Subject: Confirmatory application, request for documents pursuant to Decision 12/2005

Dear Mr. Palubinskas,

Thank you for your email with the Court's initial reply to my request for documents.

You will find attached a scanned copy of a **confirmatory application**, pursuant to article 7 of Court's Decision No 12/2005, which is addressed to the President.

The original is to be dispatched by registered mail.

I would appreciate if the Court acknowledges the correct receipt of the present message, including the attachment.

Yours sincerely,

[REDACTED]

On 19 December 2012 14:06, <eca-info@eca.europa.eu> wrote:

[REDACTED]

In your e-mail of 19 November 2012, you requested access to *Audit Programmes, Audit Test Results and Communications to the Management* concerning more than 509 transactions in the area of research and other internal policies examined by the Court of Auditors in the context of its Annual Reports 2008-2011. You further explained that you were primarily interested in obtaining the part(s) of the documents setting out how the Court adopted a specific sampling methodology and the type of documents to which the Court had access and on which it relied on to establish its findings.

We hope you will understand that it is not possible for us to provide you with detailed information concerning the audit of more than 500 transactions, comprising several thousand pages of documentation. We have therefore prepared a selection of documents for you, which are representative of the way the Court organizes and carries out its audit in the area which is of interest to you, and wish to give you some further explanations on the questions you mention as your primary interest.

As regards the sample testing of transactions in the area of research and internal policies, the *Audit Programmes*, to which you refer in your application, consist of questionnaires setting out in detail the various points our auditors have to examine. We have already sent you these audit questionnaires by e-mail of 22 November 2012.

These audit programmes/questionnaires do not explain the Court's sampling methodology and the specific application of that methodology to our audits in the area of research and internal policies, which you mention in your e-mail as one of your main areas of interest. In that respect, we can give you the following information:

The overall sample size for a policy group is determined on the basis of an initial combined risk assessment. In simplified terms, one can say that the higher the risks involved, the more samples will be examined. Once the sample size has been determined, the individual samples to be audited are selected using the "Monetary Unit Sampling" method. The transactions underlying the selected euros (using the average sampling interval) are subject to audit.

Further information on our audit sampling methodology is available in the Court's Financial and Compliance Audit Manual (<http://eca.europa.eu/portal/pls/portal/docs/1/14764740.PDF>), see in particular pages 42 (assurance model for establishing minimum sample size), 61 (audit sampling), 65 (explanation of monetary unit sampling) and 228 (designing audit procedures).

As regards, more specifically, the audit of research and internal policies, the preliminary risk assessment made in the context of the preparation of the Annual Report 2011 concluded that the inherent risk and the control risk were high. In that case, the Court's assurance model requires a random sample size of 150 payments.

As far as your application for access to documents concerns Audit Test Results and Communications to the Management, we regret to inform you that our audit observations, including our communication with the Commission and other auditees, fall under the exceptions laid down in Article 4, paragraph 1(b), paragraph 2 and the third indent of paragraph 3 of the Court of Auditor's Decision No 12/2005. Article 4, paragraph 2 of that Decision states, with reference to the Financial Regulation applicable to the general budget of the European Communities (Regulation No 1605/2002), that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations. In fact, Article 143, paragraph 2, of the Financial Regulation provides that the Court's audit observations "must remain confidential". The reason for this is not only that the Court's audit findings contain very detailed data about the natural and legal persons receiving grants from the EU budget, but also that the findings made at that stage are preliminary and may be changed after further verification and clarification. Disclosing them to the public would give the impression that the Court has actually established the existence of certain errors or irregularities, although the findings may have been modified or even withdrawn at a later stage. Therefore, only the final observations of the Court, as described in its reports, are made public.

In this context, it must also be observed that the audit findings you would like to have access to, contain very specific and detailed information about the projects and the persons involved. That information constitutes personal data protected by REGULATION (EC) No 45/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2000 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. Furthermore, according to the Case law of the Court of Justice (see the judgment in case C-315/99 P *Ismeri v Court of Auditors*), the Court of Auditors may only name natural or legal persons in its reports under specific circumstances and after having given the persons concerned the right to a hearing. If the Court of Auditors were to disclose its preliminary audit observations, thus allowing to identify the persons involved, the principles set out by the Court of Justice would be circumvented.

Having examined a sample of the audit findings to which you refer, we consider that even partial access to those documents (Article 4, paragraph 6 of Decision No 12/2005) would not be a reasonable option in the present case. If all the specific information which may allow identifying the persons concerned and the observations subject to the exceptions referred to above were deleted from the documents, there would be virtually no useful information left.

Furthermore, as the results of the Court's audits are published in its reports, we consider that there is no overriding public interest, which would, in accordance with Article 4, paragraph 8 of Decision No 12/2005, allow the disclosure of the audit test results and related communications falling under the exceptions mentioned above.

However, as your e-mail shows that you have a general interest in the type of documents the Court relies on to establish its findings and the way those findings are communicated to the auditee, we send you, attached to this e-mail, the list of reference documents examined during our audits in the area of research and internal policies and the DAS Preliminary Finding form. We hope that these documents can be useful for you.

Finally, we would like to inform you that, insofar as your request for access to documents has been refused, you have the right to ask the Court to reconsider its position within 15 working days of receiving this e-mail (Article 7 of the Court's Decision No 12/2005).

Yours sincerely,

Aidas Palubinskas

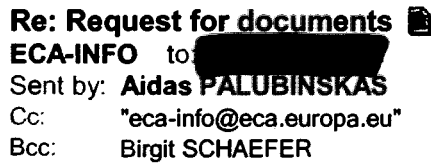
From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 10/12/2012 17:44
Subject: Request for documents pursuant to Decision 12/2005

Dear Mr. Palubinskas

Thank you very much for providing me with an update of the status of my application. The courtesy of the Court is very much appreciated.

Yours sincerely,

[REDACTED]





Re: access to information request - Expenses payments to members of the Court

ECA-INFO to: [REDACTED]
Sent by: Aidas PALUBINSKAS

01/03/2013 08:53

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 27 February 2013 in which you request documents which contain information on expenses and subsistence payments made to members of the Court of Auditors. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

27/02/2013 19:22:30

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 27/02/2013 19:22
Subject: access to information request - Expenses payments to members of the Court

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

All expenses and subsistence payments, broken down by category (eg, taxis, restaurant meals, gifts, alcoholic drinks, attendance allowances) for each senior member of the court - eg, current Irish member Kevin Cardiff.

For the calendar years 2010, 2011 and 2012.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Spending on animal research for (human) medical use

ECA-INFO to: [REDACTED]

01/03/2013 08:55

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 28 February 2013 in which you request documents which contain information on animal research in biomedical research and development. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

28/02/2013 13:57:51

From:

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 28/02/2013 13:57

Subject: access to information request - Spending on animal research for (human) medical use

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting a list of all the documents which contain the following information:

Annual (or other breakdown) of the spending (monetary) on animal research in biomedical research and development for the benefit of clinical (human) medicine (pharmaceutical) in the UK and other EU countries.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED]. For more information see our dedicated page for EU public [REDACTED] at [REDACTED]



Re: Request for documents

ECA-INFO to: [REDACTED]

Sent by: **Aidas PALUBINSKAS**

Cc: **ECA-INFO**

08/03/2013 10:54

Dear [REDACTED]

In your e-mail of 21 February 2013, you requested access to documents concerning a presentation made by [REDACTED] and [REDACTED] at a conference on the 7th Framework Programme held in Florence in September 2010. As Mr Fehr and Ms Aiello no longer work at the European Court of Auditors, we contacted the organisers of the conference, who have kindly sent us the slides of the presentation in question.

Therefore, we are now able to provide you with the slides of the presentation of September 2010 on the European Court of Auditors' role in the 7th Framework Programme (see attachment). We do not have any further documentation/notes on that presentation.

As regards your request for access to documents concerning permission for publication under Article 17a of the Staff Regulations, I would like to inform you that making an oral presentation at a conference on behalf of the Court of Auditors is not considered as a "publication" (for example of a book or an article) and therefore does not require the application of the procedure under Article 17a of the Staff Regulations.

Best regards,

Aidas Palubinskas



[REDACTED] corte dei conti.pptx

From: **ECA-INFO/Eca**
To: [REDACTED]
Cc: **eca-info@eca.europa.eu** <eca-info@eca.europa.eu>
Date: **21/02/2013 14:10**
Subject: **Re: Request for documents**
Sent by: **Aidas PALUBINSKAS**

Dear [REDACTED]

Thank you for your request.

I acknowledge receipt of your request for documents. You will receive a reply within 15 working days.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear Madam/Sir, I would like to obtain copies of t...

21/02/2013 09:06:09

From: [REDACTED]
To: **"eca-info@eca.europa.eu"** <eca-info@eca.europa.eu>
Date: **21/02/2013 09:06**
Subject: **Request for documents**

Dear Madam/Sir,

I would like to obtain copies of the documents detailed below, in exercise of rights according to the Court's Decision No 12/2005.

I refer to the presentation "The European Court of Auditors' role in the FP7, which was made by [REDACTED] and [REDACTED] at the "Study and training conference on the seventh Framework Programme, Fourth Edition", Florence, 29th - 30th September 2010. The programme is attached.

Regarding to that presentation, I would appreciate if the Court provides me with copies of the following documents

1. The slide presentation.
2. The speaker notes.
3. The documents the officials submitted to the Court requesting permission to proceed with the presentation, as stipulated by Staff Regulations, article 17a (96) "2. Without prejudice to Articles 12 and 17, an official who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the Communities shall inform the Appointing Authority in advance".
4. The Court's permission to the official to make the presentation at the workshop.

I would appreciate if the Court acknowledges the receipt of the present application.

Yours sincerely,

[REDACTED]



Re: access to information request - Spending on animal research for (human) medical use

ECA-INFO to [REDACTED]
Sent by: **Aidas PALUBINSKAS**

11/03/2013 14:38

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your request for access to documents of 28 February. The documents you are interested in are not in the possession of the European Court of Auditors. Therefore, we are not able to provide you with such documents.

Yours sincerely,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

28/02/2013 13:57:51

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 28/02/2013 13:57
Subject: access to information request - Spending on animal research for (human) medical use

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting a list of all the documents which contain the following information:

Annual (or other breakdown) of the spending (monetary) on animal research in biomedical research and development for the benefit of clinical (human) medicine (pharmaceutical) in the UK and other EU countries.

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Spending on animal research for (human) medical use

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: eca-info

11/03/2013 16:58

Dear [REDACTED]

You may have misunderstood my last email -- we are not aware if such documents exist.

You might wish to enquire at the European Commission's Directorate General for Research and Innovation here: <http://ec.europa.eu/research/index.cfm?lg=en&pg=enquiries>

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

11/03/2013 16:36:55

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 11/03/2013 16:36
Subject: Re: access to information request - Spending on animal research for (human) medical use

Dear European Court of Auditors,

Thank you for your response. However, as your email suggests that you know of such documents and their existence then please will you kindly advise me where to direct my request to. It would be helpful if you were to provide me with a list of the possessors of such documents that can be requested under the access to information regulations.

Yours faithfully,

[REDACTED]

-----Original Message-----

Dear [REDACTED]

Thank you for your request for access to documents of 28 February.

The documents you are interested in are not in the possession of the European Court of Auditors. Therefore, we are not able to provide you with such documents.

Yours sincerely,

Aidas Palubinskas

From: [REDACTED]
To: information requests at European Court of Auditors
<[European Court of Auditors request email]>
Date: 28/02/2013 13:57
Subject: access to information request - Spending on animal research for (human) medical use

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting a list of all the documents which contain the following information:

Annual (or other breakdown) of the spending (monetary) on animal research in biomedical research and development for the benefit of clinical (human) medicine (pharmaceutical) in the UK and other EU countries.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the AsktheEU.org website.

Please kindly use this email address for all replies to this request: [REDACTED]

If [European Court of Auditors request email] is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]

Disclaimer: If you have received this message in error, please contact the sender immediately.

Avertissement : Si ce message vous a été adressé par erreur, nous vous prions de vous mettre immédiatement en rapport avec l'expéditeur.

References

Visible links

[REDACTED]



Re: FOIA Request
ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: eca-info

13/03/2013 16:21

Dear [REDACTED]

Once again, thank you for your request. Could you please clarify what documents you are requesting? I am searching all our special reports, but as of yet have not found anything that would show that we've examined that which you've referred to. I am sure that you are aware that we do not audit every EU project or expenditure. We audit on the basis of statistical selection, as auditing every transaction would be impossible for our limited resources.

Kindest regards,

Aidas Palubinskas

[REDACTED] Goodmorning, my name is [REDACTED] I am a...

12/03/2013 15:48:44

From: [REDACTED]
To: press@eca.europa.eu
Cc: eca-info@eca.europa.eu
Date: 12/03/2013 15:48
Subject: FOIA Request

Goodmorning,
my name is [REDACTED] I am a journalist and I write you exercising my freedom of information right in order to obtain from the European Court of Auditors an audit that your offices produced in 2008 on the the expenses of the European Union under the Pegasus Mechanism in order to pay the fuel for the Gaza Power Plant to the [REDACTED] Company [REDACTED] [REDACTED] see the documents in attachment extracted by this official search engine http://ec.europa.eu/beneficiaries/fts/index_en.htm).

I already asked the Eu offices that told me to ask you.

Thank you for your help,

Sincerely,

--
[REDACTED]
[REDACTED]
[REDACTED]



Re: access to information request - Expenses payments to members of the Court

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: information requests at European Court of Auditors

19/03/2013 16:57

Dear [REDACTED]

On 27 February 2013, you sent a request to the Court of Auditors for documents containing information on the expenses and subsistence allowances of its members.

First, and in order to give an overview of the financial entitlements of the members of the Court of Auditors, please find attached:

- a pdf. of pages 85 and 86 of the Consolidated Annual Accounts of the European Union for the year 2011. (http://ec.europa.eu/budget/library/biblio/publications/2011/eu_annual_accounts_2011_en.pdf)
The 2012 version is not yet available.



20130318164759235.pdf

Page 86 contains a table setting out a summary of the the key management financial entitlements for the 2011. As is established on page 85 of the Consolidated Annual Accounts, the President and other Members of the Court of Auditors fall under Category 4.

Further information is available in the Staff Regulations (http://ec.europa.eu/civil_service/docs/toc100_en.pdf) which describes the rights and obligations of all officials of the EU, and which are applicable to Members of the institution.

Next, please find attached:

- Regulation No 2290/77 - EMOLUMENTS OF MEMBERS OF THE COURT (consolidated version)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1977R2290:19920101:EN:PDF>



20130318164717690.pdf

- Court of Auditor's Decision 1/2003 - MISSION EXPENSES OF MEMBERS OF THE COURT



20130318165446482.pdf

- Court of Auditor's Decision 7/2004 - REPRESENTATION AND RECEPTION EXPENSES OF MEMBERS OF THE COURT



20130318165757769.pdf

Finally, please see the Budget of the European Union for the relevant years for the appropriations entered in the budget under Budget line 252.01: Representation expenses of Members of the Court and Budget line 104: Mission expenses of Members of the Court. (http://ec.europa.eu/budget/biblio/documents/index_en.cfm)

Please note that the amount of real payments made by the Court of Auditors (until 15 March 2013) relating to the years 2010, 2011 and 2012 are as following:

Budget line 252.01: Representation expenses of Members of the Court:

- 2010: 194.334,23€,
- 2011: 184.712,11€,
- 2012: 153.074,56€.

Budget line 104: Mission expenses of Members of the Court:

- 2010: 234.714,64€,
- 2011: 194.657,74€,
- 2012: 218.869,85€.

All requests made by members for reimbursement of expenses are accompanied by external supporting documents relating to the expenditure (ex. invoices).

We hope the information provided meets your needs.

Sincerely,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

27/02/2013 19:22:30

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 27/02/2013 19:22
Subject: access to information request - Expenses payments to members of the Court

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

All expenses and subsistence payments, broken down by category (eg, taxis, restaurant meals, gifts, alcoholic drinks, attendance allowances) for each senior member of the court - eg, current Irish member Kevin Cardiff.

For the calendar years 2010, 2011 and 2012.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]



Re: FOIA Request
ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: eca-info

20/03/2013 14:12

Dear [REDACTED]

I have now tracked down whether we did an audit that you mention below. Indeed, in 2008, some field work was done at the power plant in the context of preparing our annual report (Statement of Assurance on the implementation of the EU budget). The Statement of Preliminary Findings mentions it, but, under article 4 of Decision No 12/2005 (regarding public access to documents) of the ECA, we cannot disclose documents containing opinions for internal use as part of deliberations and preliminary consultations.

Should you wish to petition the Court to reconsider this decision, you may do so within 15 working days.

Kindest regards,

Aidas Palubinskas

[REDACTED] Hallo this audit is mentioned in a leak coming fro...

13/03/2013 23:17:37

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 13/03/2013 23:17
Subject: Re: FOIA Request

Hallo this audit is mentioned in a leak coming from the Jerusalem consulate
<http://www.cablegatesearch.net/cable.php?id=10JERUSALEM185&q=energy-and-power>
and it was confirmed by Europe Aid communication office.

2013/3/13 <eca-info@eca.europa.eu>

Dear [REDACTED]

Once again, thank you for your request. Could you please clarify what documents you are requesting? I am searching all our special reports, but as of yet have not found anything that would show that we've examined that which you've referred to. I am sure that you are aware that we do not audit every EU project or expenditure. We audit on the basis of statistical selection, as auditing every transaction would be impossible for our limited resources.

Kindest regards,

Aidas Palubinskas

From: [REDACTED]
To: press@eca.europa.eu

Cc: eca-info@eca.europa.eu
Date: 12/03/2013 15:48
Subject: FOIA Request

Goodmorning,

my name is [REDACTED] am a journalist and I write you exercising my freedom of information right in order to obtain from the European Court of Auditors an audit that your offices produced in 2008 on the the expenses of the European Union under the Pegasus Mechanism in order to pay the fuel for the Gaza Power Plant to the [REDACTED] Company [REDACTED] (see the documents in attachment extracted by this official search engine http://ec.europa.eu/beneficiaries/fts/index_en.htm).

I already asked the Eu offices that told me to ask you.

Thank you for your help,

Sincerely,

[attachment "FTS 2.pdf" deleted by Aidas PALUBINSKAS/Eca] [attachment "FTS.pdf" deleted by Aidas PALUBINSKAS/Eca]

Disclaimer: If you have received this message in error, please contact the sender immediately.

Avertissement : Si ce message vous a été adressé par erreur, nous vous prions de vous mettre immédiatement en rapport avec l'expéditeur.



Re: FOIA Request
ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: eca-info

21/03/2013 13:28

Dear [REDACTED]

I am a Mr. :)

If the work was done in 2008, then it be for the Annual Report for 2007. You can find it here:
http://eca.europa.eu/portal/page/portal/publications/auditreportsandopinions/annualreports/annualreportsdetailed?mo=containsany&ms=&p_action=SUBMIT&pg=&fi=-1&fs=&pu=0&l=&ci=&pi=&rt=items&iid=49717%2C0&st=Advanced&saa=ALL&pan=ReleaseYear&pao=containsall&pav=2007&pas=0

It does not, however, mention the audit specifically.

Kindest regards,

Aidas

[REDACTED] Dear Ms Aidas, I will consider to petition the Cour... 21/03/2013 12:21:05

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 21/03/2013 12:21
Subject: Re: FOIA Request

Dear Ms Aidas,

I will consider to petition the Court. In the meanwhile I'd like you to ask the report you mention Statement of Assurance on the implementation of the EU budget that comprehends, as you put it, the field work made at the powerplant.

Kind regards

[REDACTED]
2013/3/20 <eca-info@eca.europa.eu>

Dear [REDACTED]

I have now tracked down whether we did an audit that you mention below.

Indeed, in 2008, some field work was done at the power plant in the context of preparing our annual report (Statement of Assurance on the implementation of the EU budget). The Statement of Preliminary Findings mentions it, but, under article 4 of Decision No 12/2005 (regarding public access to documents) of the ECA, we cannot disclose documents containing opinions for internal use as part of deliberations and preliminary consultations.

Should you wish to petition the Court to reconsider this decision, you may do so within 15 working days.

Kindest regards,

Aidas Palubinskas

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 13/03/2013 23:17
Subject: Re: FOIA Request

Hallo this audit is mentioned in a leak coming from the Jerusalem consulate
<http://www.cablegatesearch.net/cable.php?id=10JERUSALEM185&q=energy-and-power>
wer

and it was confirmed by Europe Aid communication office.

2013/3/13 <eca-info@eca.europa.eu>

Dear [REDACTED]

Once again, thank you for your request. Could you please clarify what documents you are requesting? I am searching all our special reports, but as of yet have not found anything that would show that we've examined that which you've referred to. I am sure that you are aware that we do not audit every EU project or expenditure. We audit on the basis of statistical selection, as auditing every transaction would be impossible for our limited resources.

Kindest regards,

Aidas Palubinskas

From: [REDACTED]
To: press@eca.europa.eu
Cc: eca-info@eca.europa.eu
Date: 12/03/2013 15:48
Subject: FOIA Request

Goodmorning,

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engine http://ec.europa.eu/beneficiaries/fts/index_en.htm).

I already asked the Eu offices that told me to ask you.

Thank you for your help,

Sincerely,

[REDACTED]

--

[REDACTED]

[attachment "FTS 2.pdf" deleted by Aidas PALUBINSKAS/Eca] [attachment "FTS.pdf" deleted by Aidas PALUBINSKAS/Eca]

Disclaimer: If you have received this message in error, please contact the sender immediately.

Avertissement : Si ce message vous a été adressé par erreur, nous vous prions de vous mettre immédiatement en rapport avec l'expéditeur.

--

[REDACTED]

Disclaimer: If you have received this message in error, please contact the sender immediately.

Avertissement : Si ce message vous a été adressé par erreur, nous vous prions de vous mettre immédiatement en rapport avec l'expéditeur.



Re: FW: Public access request - URGENT

ECA-INFO to: [REDACTED]

Sent by: **Aidas PALUBINSKAS**

Cc: "eca-info@eca.europa.eu"

Bcc: [REDACTED]

14/06/2013 09:45

Dear [REDACTED]

I acknowledge receipt of your request. We will reply to your request on or before 1 July.

Kindest regards,

Aidas Palubinskas

muriel lightbourne

Dear Madam, dear sir,

14/06/2013 09:23:31

From: [REDACTED]

To: "eca-info@eca.europa.eu" <eca-info@eca.europa.eu>

Date: 14/06/2013 09:23

Subject: FW: Public access request - URGENT

Dear Madam, dear sir,

May I kindly ask you to acknowledge receipt of my previous message so that I know when to start computing the 15 working day-delay as per Article 7 of Regulation (EC) N°1049/2001 regarding public access to documents?

With regards,

[REDACTED]

From: [REDACTED]

To: eca-info@eca.europa.eu

Subject: Public access request

Date: Mon, 10 Jun 2013 15:11:37 +0000

Dear Madam, dear Sir,

I would like to access the part of your file concerning the audit of the CPVO (titled 'Report on the annual accounts of the Community Plant Variety Office for the financial year 2011 - together with the Office's replies') which deals with recruitment procedures, and in particular your conclusions, not detailed in your report but discussed at the CPVO Administrative Council, regarding the marking and ranking of candidates to the position of lawyer in the 2011 recrutement procedure,

- in particular the detailed conclusions of the audit in this respect,
- the documents provided by the CPVO in this matter (marks and final ranking of the three first candidates - no names needed, except the third one, which is mine, others can be replaced with letters for instance, like A and B).

With anticipated thanks and regards,

[REDACTED]



Re: FOIA Request
ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: eca-info, press

13/03/2013 08:47

Dear [REDACTED]

Thank you for your email of 12 March 2013 in which you request documents which contain information you requested in your email below. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days.

Kindest regards,

Aidas Palubinskas

[REDACTED] Goodmorning, my name is [REDACTED] am a...

12/03/2013 15:48:44

From: [REDACTED]
To: press@eca.europa.eu
Cc: eca-info@eca.europa.eu
Date: 12/03/2013 15:48
Subject: FOIA Request

Goodmorning,

my name is [REDACTED] am a journalist and I write you excerzising my freedom of information right in order to obtain from the European Court of Auditors an audit that your offices produced in 2008 on the the expenses of the European Union under the Pegasus Mechanism in order to pay the fuel for the Gaza Power Plant to the [REDACTED] Company [REDACTED]

[REDACTED] see the documents in attachment extracted by this official search engine

http://ec.europa.eu/beneficiaries/fts/index_en.htm).

I already asked the Eu offices that told me to ask you.

Thank you for your help,

Sincerely,

[REDACTED]

--

[REDACTED]



Re: access to information request - On-the-spot audits to private sector beneficiaries, professional secrecy obligations

ECA-INFO to: [REDACTED]

20/06/2013 08:45

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 20 June 2013 in which you request documents which contain information on our data protection policies and documents related to an audit done in 2011. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by 10 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

20/06/2013 08:07:57

From: [REDACTED]

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 20/06/2013 08:07

Subject: access to information request - On-the-spot audits to private sector beneficiaries, professional secrecy obligations

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

All requested documents drawn up by the Court concern on-the-spot audits of a private sector beneficiary (e.g. a company) and the 'measures' of the Court to protect and safeguard the information of third parties in relation to an auditee, in particular information that is subject to professional secrecy according to article 339 TFEU.

As a hypothetical example to illustrate the scope of the present application, consider the case where the Court inspects an agreement between an auditee and a third party regarding, inter alia,, some financial transaction under the scope of the audit. It is probable that the agreement has a wider scope that the audit itself, perhaps about other transactions that have nothing to do with the beneficiary's subsidies from the Union's budget. By consulting the agreement, staff of the Court may become aware of information that is commercially sensitive and is not related at all with the Court's audit of the beneficiary. Furthermore, it cannot be excluded that the staff refrain from requesting and obtaining copies of such agreements for inclusion in the audit file. Consequently, copies of such agreements might end up in the audit file held by the Court.

It is clarified that all requested documents are internal documents of the Court, in the sense that they are not published in the Court's web site. Therefore, the published Financial and Compliance Audit Manual of the Court is not within the scope of the present

application. Similarly, International Audit Manuals according to which the Court conducts its audit work are not within the scope of the application. It is reiterated that the requested documents solely concern (a) the protection of information regarding private sector entities other than the auditee obtained/collected from a private sector beneficiary and definitely not information/documents obtained from audits of a Public Administration, and (b) the information comes into the knowledge of the Court's staff in an on-the-spot audit of a private sector entity in a Member State.

I would be grateful if the Court would release copies of the following documents:

1. Internal 'guidelines' (or equivalent) to its staff setting out some kind of a 'limit' as to what information they will make enquiries about in an on-the-spot audit.
2. Internal 'guidelines' (or equivalent) to its staff setting out some kind of a 'limit' as to what kind of documents of the auditee, or parts thereof, the Court's staff will copy for inclusion in the audit file.
3. For a single audit announced in 2011, (i) a redacted version of a Court's letter (drawn up in 2011) informing a private sector entity in a Member State about the conduct of an on-the-spot audit, including all annexes thereto, (ii) subsequent letters addressed to the auditee up to the conduct of the on-the-spot audit and annexes thereto, (iii) letters (notes) addressed to National Audit Bodies about that particular audit and annexes thereto, and (iv) letters (notes) addressed to the European Commission about that particular audit and annexes thereto. The letters (notes) under (iii) and (iv) are documents drawn up until the conduct of the on-the-spot audit.
4. For the same audit under (3) above, (i) a redacted version of the 'On-the-spot audit report', or equivalent, drawn up by the Court's staff after the completion of the on-the-spot audit, and (ii) the document(s) containing the list(s) of documents copied from the audit (or parts thereof) for inclusion in the audit file. The document(s) under (ii) may be considered as some kind of 'statement of contents' of the audit file, as of, say, a few months, after the conduct of the on-the-spot audit.
5. For the same audit under (3) above, a redacted version of the Court's main letter addressed to the auditee setting out the main findings of the audit.
6. For the same audit under (3) above and in case the Court notified the National Audit Body or the European Commission about its findings, a redacted version of the Court's letter (or note) addressed to the Body and the Commission setting out the main findings of the audit.

The requests under (3) to (6) above concern a single audit. It is left to the Court to select according to its own convenience any particular audit, provided that the audit was conducted (descending order of preference) in 1-Greece, 2-Cyprus, 3-U.K., 4. Ireland, 5-Malta, 6-France, 7-Belgium, 8-Italy, 9-Spain.

In my view, the redacted documents will be produced by expunging from the original documents the parts allowing to infer the identity of the auditee, third parties and natural persons.

The Court's Decision 12/2005 provides for several exceptions, but in my view none is applicable to the present requests. The provision of article 4(2) 'In accordance with the rules governing confidentiality laid down in Articles 143(2) and 144(1) of Council

Regulation EC, Euratom) No 1605/2002' applies to the Court's observations addressed to an Institution and not to an auditee. In any case, none of the exemptions of the Decision 12/2005 is applicable to the documents requested under (1) to (3).

Arguably, an overriding public interest concerns the requested documents, because the subject matter of the application is the Court's observance of article 339 TFEU. A refusal of the Court to release, fully or partially as the case may be, any of the requested document may, rightly, be interpreted as the Court's refusal to subject itself to public scrutiny about its strict observance of article 339 TFEU regarding third parties (not an auditee) in the framework of its own on-the-spot audits of private sector beneficiaries.

Should the Court find that the application is not sufficiently precise, please advise me.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU [REDACTED] officials at [REDACTED]



Re: access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

ECA-INFO to: [REDACTED]

20/06/2013 10:29

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 20 June 2013 in which you request documents which contain information on audits that may have been done at FRA and possible ECA collaboration with OLAF regarding FRA. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by 10 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

20/06/2013 09:42:00

From:

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 20/06/2013 09:42

Subject: access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

1. Audit reports and its annexes for the contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights. Details for the particular contracts I refer could be found here

http://ec.europa.eu/justice/newsroom/files/decision_just_2012_prog_ag_ad_en.pdf

[REDACTED]
and here

http://

2. Relevant information and related documents on respect of collaboration of Court of Auditors with OLAF on these cases

[REDACTED]
3. Audit Report on FRA procurement procedure for "Provision of legal services to FRA staff"

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



**Re: access to information request - Presentation on 21 January 2011
by former DG INFSO**

ECA-INFO to: [REDACTED]

21/06/2013 08:58

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 20 June 2013 in which you request documents which contain information that may have been presented by two European Commission officials during a presentation called "Techniques for investigation" in 2011. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by 11 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

21/06/2013 05:37:27

From: [REDACTED]

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 21/06/2013 05:37

Subject: access to information request - Presentation on 21 January 2011 by former DG INFSO

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Page 18 of the Court's Journal, issue March 2011 reads:

The central theme of this year's seminar was "procurement", and Chamber IV was pleased to welcome two colleagues from Directorate-General Information Society and Media Directorate-General (DG INFSO) in Brussels,..... who gave a presentation entitled "Techniques for investigation".

Copies of the following documents are kindly requested:

1. The slides of the presentation "Techniques for investigation"
2. The speaker notes, if any
3. Any other document(s) handed over to the Court on the occasion of the visit to the Court by those two officials

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent to [REDACTED]



Re: Public access request
ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: "eca-info@eca.europa.eu"

28/06/2013 10:20

Dear [REDACTED]

By email of 10 June 2013, you request access to the part of the ECA file concerning the audit of the CPVO which deals with recruitment procedures. In particular you request access to the ECA conclusions, discussed at the CPVO Administrative Council, regarding the marking and ranking of candidates to the position of lawyer in the 2011 recruitment procedure. You also request access to the documents provided by the CPVO in this context, in particular the marks and final ranking of the three first candidates. You state that no names are required except the third one, which is your own.

According to Article 162 paragraph 1 of the Financial Regulation (Regulation No 966/2012), the Court's audit observations, submitted to the auditee concerned "*must remain confidential*". Only those observations that the Court has decided to include in its final report (in the present case, the Report on the annual accounts of the Community Plant Variety Office for the financial year 2011) may be disclosed to the public.

Article 4, paragraph 2 of that ECA Decision No 12/2005 on public access to Court Documents states, with reference to the FR, that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations.

Furthermore, documents relating to recruitment procedures contain very detailed information about the candidates constituting personal data protected by Regulation No 45/2001 on the protection of individuals with regard to the processing of personal data by EU institutions and bodies and on the free movement of such data.

Since the results of the audit was published in the "Report on the annual accounts of the Community Plant Variety Office for the financial year 2011", there is no overriding public interest, which would, in accordance with Article 4, paragraph 8 of Decision No 12/2005, allow the disclosure of the audit test results falling under the exception mentioned above.

We draw your attention to the fact that, pursuant to Article 7 of Decision No. 12/2005, you may make a confirmatory application, within 15 working days of receiving its reply, and ask the ECA to reconsider its position.

Sincerely,

Aidas Palubinskas

[REDACTED] Dear Madam, dear Sir,

10/06/2013 17:11:43

From: [REDACTED]
To: "eca-info@eca.europa.eu" <eca-info@eca.europa.eu>
Date: 10/06/2013 17:11
Subject: Public access request

Dear Madam, dear Sir,

I would like to access the part of your file concerning the audit of the CPVO (titled 'Report on the annual accounts of the Community Plant Variety Office for the financial year 2011 - together with the Office's replies') which deals with recruitment procedures, and in particular your conclusions, not detailed in your report but discussed at the CPVO

Administrative Council, regarding the marking and ranking of candidates to the position of lawyer in the 2011 recruitment procedure,

- in particular the detailed conclusions of the audit in this respect,
- the documents provided by the CPVO in this matter (marks and final ranking of the three first candidates - no names needed, except the third one, which is mine, others can be replaced with letters for instance, like A and B).

With anticipated thanks and regards,

[REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for European Fishery Agency for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]

01/07/2013 08:28

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 29 June 2013 in which you request documents which contain information on our report and all preliminary findings for European Fisheries Control Agency (EFCA) for 2010, 2011 and 2012. If available, preliminary findings for 2013. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 19 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

29/06/2013 13:03:46

From: [REDACTED]

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 29/06/2013 13:03

Subject: access to information request - Audit Report and all Preliminary findings for European Fishery Agency for 2010, 2011 and 2012

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Report and all Preliminary findings for European Fisheries Control Agency (EFCA) for 2010, 2011 and 2012. If available, preliminary findings for 2013.

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on [REDACTED]. For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for EEA for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**

01/07/2013 08:28

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 29 June 2013 in which you request documents which contain information on our report and all preliminary findings for European Environment Agency) for 2010, 2011 and 2012. If available, preliminary findings for 2013. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 19 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

29/06/2013 13:07:40

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 29/06/2013 13:07
Subject: access to information request - Audit Report and all Preliminary findings for EEA for 2010, 2011 and 2012

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Report and all Preliminary findings for European Environment Agency (EEA) for 2010, 2011 and 2012. If available, preliminary findings for 2013.

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] for more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for EASA for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]

01/07/2013 08:29

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 29 June 2013 in which you request documents which contain information on our report and all preliminary findings for European Aviation Safety Agency for 2010, 2011 and 2012. If available, preliminary findings for 2013. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 19 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

29/06/2013 13:11:18

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 29/06/2013 13:11
Subject: access to information request - Audit Report and all Preliminary findings for EASA for 2010, 2011 and 2012

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Report and all Preliminary findings for European Aviation Safety Agency (EASA) for 2010, 2011 and 2012. If available, preliminary findings for 2013.

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email team@asktheEU.org

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for ECHA for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]

01/07/2013 08:29

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 29 June 2013 in which you request documents which contain information on our report and all preliminary findings for European Chemicals Agency for 2010, 2011 and 2012. If available, preliminary findings for 2013. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 19 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

29/06/2013 13:12:39

From: [REDACTED]

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 29/06/2013 13:12

Subject: access to information request - Audit Report and all Preliminary findings for ECHA for 2010, 2011 and 2012

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Report and all Preliminary findings for European Chemicals Agency (ECHA) for 2010, 2011 and 2012. If available, preliminary findings for 2013.

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] am on email team@asktheEU.org

This message and all replies from European Court of Auditors will be published on [REDACTED]. For more information see our dedicated page for EU public officials at [REDACTED]



**Re: access to information request - Presentation on 21 January 2011
by former DG INFSO**

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**
Cc: eca-info

03/07/2013 11:41

Dear [REDACTED]

To the best of our knowledge, the document that we provided you is indeed the document that you requested.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

03/07/2013 11:32:23

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 03/07/2013 11:32
Subject: Re: access to information request - Presentation on 21 January 2011 by former DG INFSO

Dear European Court of Auditors,

Thank you for dispatching the presentation, whose first page reads:

Techniques for risk-based auditing
DG INFSO-02 Freddy Dezeure - Charles Macmillan
21/1/2011 European Court of Auditors Chamber IV

I respectfully put to the Court of Auditors the following:

A. The Powerpoint document properties read as follows:

Author: [REDACTED]
Title: CETFI Course
Created: 20 January 2011 10:58:26
Last saved: S [REDACTED]
Total edited time: 3234 Minutes

B. As of late June 2013, it appears that a certain '[REDACTED]
[REDACTED] is a person with a direct line in Court's telephone
system.

C. The two DG INFSO officials were former members of the S.5 DG
INFSO Unit. Hundreds of letters dispatched by the first official to
auditees identify him as the S.5 Head of Unit. It appears
impossible that those two DG INFSO officials were attached to a
"02" Directory, Unit, or Sector of the former DG INFSO in January
2011.

D. In view of the above, the following points are raised:

- The titles of the presentation applied for is very different from that of the released one.
- The document author is very probably an individual working at the Court, both at the time the Powerpoint time was last saved and in late June 2013
- Since the file was edited for 3,234 minutes, it follows it was saved about 17:00 pm on 22/1/2011 at the earliest.
- Typically, when a presenter hands over a Powerpoint presentation

to a workshop organiser, staff of the latter do not edit the presentation until the end of the next business day.

The above considerations strongly suggest that the presentation applied for is a different document from the released one. Even if the content between the two presentations is nearly identical, they are nonetheless different documents.

There might be a perfectly logical explanation for the above 'discrepancy', perhaps the Court inadvertently released a different document.

I would therefore be obliged if the Court would confirm that the released document is indeed the document applied for. In case the requested clarification is dispatched after Monday 12 July 2013, I may lodge a confirmatory application anyway.

Yours faithfully,

[REDACTED]

-----Original Message-----

[REDACTED]

Once again, thank you for your email of 20 June 2013 in which you request documents which contain information that may have been presented by two European Commission officials during a presentation called "Techniques for investigation" in 2011.

Please find attached to this email the powerpoint presentation used by the speakers from DG INFSO for the 2011 Chamber IV seminar. They did not present the ECA with any speaking notes, and we received no other documents on the occasion of their visit.

Kindest regards,

Aidas Palubinskas

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Page 18 of the Court's Journal, issue March 2011 reads:

The central theme of this year's seminar was "procurement", and Chamber IV was pleased to welcome two colleagues from Directorate-General Information Society and Media Directorate-General (DG INFSO) in Brussels,..... who gave a presentation entitled "Techniques for investigation".

Copies of the following documents are kindly requested:

1. The slides of the presentation "Techniques for investigation"

2. The speaker notes, if any

3. Any other document(s) handed over to the Court on the occasion

of the visit to the Court by those two officials

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been

sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If [European Court of Auditors request email] is the wrong address for information

requests to European Court of Auditors, please tell the [REDACTED] team on email [email address]

This message and all replies from European Court of Auditors will be published on [REDACTED] For more information see our dedicated page for EU public officials at [1]http: [REDACTED]

Disclaimer: If you have received this message in error, please contact the sender immediately.

Avertissement : Si ce message vous a été adressé par erreur, nous vous prions de vous mettre immédiatement en rapport avec l'expéditeur.

References

Visible links.

Please use this email address for all replies to this request:

[REDACTED]
This message and all replies from European Court of Auditors will be published on [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Compliance of the Court with Regulation No 45/2001, FP6 & FP7 Financial Audits , Personal Data Protection

ECA-INFO to: [REDACTED]
Sent by: **Damijan FISER**

04/07/2013 17:31

Dear [REDACTED]

Thank you for your email of 4 July 2013, in which you request copies of the following documents:

1. *The documents setting out the lawfulness of the PDTPRCPC (Personal Data of Third Parties to Research Contracts Processed by the Court originating from the external financial audits of the Research family DGs pursuant to articles FP6.II.29 and FP7.II.22').*
2. *The article 25 of Regulation 45/2001 prior notification(s) about the PDTPRCPC.*
3. *The documents drawn up by the Data Protection Officer about the PDTPRCPC.*
4. *Copies of any 20 letters the Court dispatched to data subjects pursuant to article 12(1) or Regulation No 45/2001 for the personal data the Court processed from 1/1/2019 to 31/12/2011.*
5. *The documents setting out an analysis of the compliance with article 7 of Regulation No 45/2001 regarding the PDTPRCPC.*

Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on Wednesday 24 July 2013.

Kindest regards,

ECA Info

[REDACTED] Dear European Court of Auditors,

04/07/2013 11:48:13

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 04/07/2013 11:48
Subject: access to information request - Compliance of the Court with Regulation No 45/2001, FP6 & FP7 Financial Audits , Personal Data Protection

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

I refer to the audits of the Court of the FP6 & FP7 projects. The Court has audited the Research family DGs and has relied on the personal data in the possession of those DGs to check the compliance of the underlying transactions with legality. In other words, the Court has processed personal data originating from the contractual financial audits of those DGs pursuant to articles FP6.II.29 and FP7.II.22.

Approximately 80% of all external financial audits of the Research

family DGs have been conducted by external auditors pursuant to a private law contract between the DG RTD and the external auditors. It follows therefore that for 80% of the said audits, the personal data of employees or service providers of the auditees end up in the possession of a Research family DG solely pursuant to two private law contracts. There can be no doubt that the Research family DGs end up with personal data of third parties to the audited FP6 contracts or FP7 grant agreements, as the case may be.

There are huge questions about how exactly personal data acquired by the Commission services in such a solely contractual context, and which also concern third parties to the research contracts, is lawfully in the possession of the Commission services. An analysis of article 25 of Regulation No 45/2001 immediately discloses that none of the conditions of article 5 of the said Regulation is even remotely satisfied, unless the data subject has expressly stated his/her consent. It is absolutely certain that the data subject has not given its consent, as the personal data are collected in the field audit from the auditee (a legal person in the vast majority of audits) and not from the data subject. Furthermore, the data subject is not even aware about it.

The above reasoning calls immediately to question to what extent the Court of Auditors has lawfully processed personal data in its audits of the Research family DGs. As the Court itself has stated in its opinion 1/2006, in the FP4, FP5 and FP6 Programmes the relationship between the contractor-beneficiary and the Commission is a 'private law contract'. Equally, the FP7 grant agreement is a 'private law contract'. It cannot be accepted that the Court has 'overlooked' article 5 of Regulation No 45/2001 and its implications about the lawfulness of the personal data in the possession of the Research family DGs.

Since the Court is primarily concerned with verifying the legality of the underlying transactions, prior to any processing by itself of the personal data in the possession of the Research DGs, the Court has had an absolute obligation to satisfy itself that the latter DGs were indeed in a fully lawful possession. To this end, the Court has had an absolute obligation to verify that the data subjects had provided their express consent.

There are also huge issues about the article 25 prior notifications of Regulation No 45/2001 about the external financial audits of the Research family DGs. The very first one, DG INFSO DPO-3338.1 was filed as late as 2/2/2011, i.e. when more than approximately 1,500 audits had been carried out.

The prior notifications DPO-3334.1, DPO-3338.1, DPO-3398, DPO-3420.1 and DPO-3455.1 have the 'statements' "This processing has been submitted to the EDPS who concluded that Article 27 is not applicable. 3. Sub-Contractors -". These statements are manifestly extremely inaccurate, to say the least simply because:

1. The Annual Activity Reports of the Research family DGs state that approximately 80% of the audits were outsourced.
2. The EDPS calls prior notifications referred to him for article 27 consultations as a 'non-prior check'. In accordance to Regulation No 45/2001, the EDPS publishes his opinion about every single 'non-prior check' in his website. A rudimentary 'check' of the EDPS website discloses that DPO-3334.1, DPO-3338.1, DPO-3398, DPO-3420.1 and DPO-3455.1 were never submitted to the EDPS for any type of 'consultations'. It is thus evident that the statement "This processing has been submitted to the EDPS who concluded that Article 27 is not applicable" is in total contradiction with the contents of the EDPS public website.

It cannot be accepted that the Court was not diligent enough to realise that up to 2/2/2011 there was no prior notification at all about the external financial audits in question and that those filed afterwards have had highly inaccurate statements, with the 'no subcontractors' as blatantly inaccurate. This inaccuracy alone ought to have raised red alerts to the Court, since the Court supposedly verifies the legality of the transactions.

It is worth recalling that legality is far more than the protection of financial interests. After all, democracy, the rule of law, fundamental rights, education, and publicly-funded art do not come without a price tag. Arguably, the taxpayers' financial interests take a hit, as taxation is raised to pay for elections, the Parliament, the Courts and so on. Dispensing with such 'expensive' Institutions would certainly lower taxation, thus positively impacting the taxpayer's financial interests.

Furthermore, the Court itself costs the taxpayer money. The very fact that the Treaties provide for the Court proves that legality is above the financial interests. It appears that the Court has somewhat 'forgotten' such fundamental considerations in its audits of the Research family DGs when it came to compliance with Regulation No 45/2001.

For the purposes of this application, the abbreviation 'PDTPRCPC' stands for 'Personal Data of Third Parties to Research Contracts Processed by the Court originating from the external financial audits of the Research family DGs pursuant to articles FP6.II.29 and FP7.II.22'.

Copies of the following documents drawn up by the Court are kindly applied for:

1. The documents setting out the lawfulness of the PDTPRCPC.
2. The article 25 of Regulation 45/2001 prior notification(s) about the PDTPRCPC.
3. The documents drawn up by the Data Protection Officer about the PDTPRCPC.
4. Since the Court has processed personal data it did not itself obtain/collect from the data subjects but from a third party (i.e. Commission services), copies of any 20 letters the Court dispatched to data subjects pursuant to article 12(1) or Regulation No 45/2001 for the personal data the Court processed from 1/1/2019 to 31/12/2011.
5. The documents setting out an analysis of the compliance with article 7 of Regulation No 45/2001 regarding the PDTPRCPC.

***** OVERRIDING PUBLIC INTEREST *****

First, it is worth recalling that:

1. The Schecke Judgement has made absolutely clear the fundamental importance of personal data protection in the European Union, Joined Cases C-92/09 and C-93/09.
2. The Bavarian Lager Judgement, as well as the Commission's refusal to disclose personal data without the express consent of a data subject, has illustrated (i) that strict compliance with the Regulation No 45/2001 is of the essence, and (ii) the Commission services are in general very diligent in observing the said Regulation.

3. The Commission referred Austria to Court of Justice for lack of independence of data protection authority, Case C-614/10.

4. The Commission referred Germany to the Court of Justice for lack of independence of the data protection supervisory authority, Case C-518/07.

Due to the extremely sensitive nature of the subject-matter of the application, it is manifestly evident that there is an overriding public interest for the full release of very single document held by the Court and applied for above.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

ECA-INFO to: [REDACTED]
Sent by: Aidas PALUBINSKAS
Cc: eca-info

08/07/2013 10:14

Dear [REDACTED]

By email of 20 June 2013, you request access to documents which contain the following information:

"1. Audit reports and its annexes for the contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights. Details for the particular contracts I refer could be found here

http://ec.europa.eu/justice/newsroom/files/decision_just_2012_prog_ag_ad_en.pdf

http://www.asktheeu.org/en/request/request_to_access_information_an_2

http://www.asktheeu.org/en/request/contacts_of_mrs_viviane_reding_m
and here

http://www.asktheeu.org/en/request/request_to_access_fra_informatio_3

2. Relevant information and related documents on respect of collaboration of Court of Auditors with OLAF on these cases

<http://www.asktheeu.org/en/request/453/response/1652/attach/html/4/Access%20to%20doc.of%2011%20April%202013.tif.html>

3. Audit Report on FRA procurement procedure for "Provision of legal services to FRA staff".

http://www.asktheeu.org/en/request/tender_file_for_provision_of_leg

According to Article 162 paragraph 1 of the Financial Regulation (Regulation No 966/2012), the Court's audit observations, submitted to the auditee concerned "must remain confidential". Only those observations that the Court has decided to include in its final report may be disclosed to the public.

Article 4, paragraph 2 of the Court of Auditor's Decision (No 12 /2005) on public access to Court Documents states, with reference to the FR, that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations.

Article 4, paragraph 3 of Decision No 12 /2005 states that the Court is to refuse access to a document where disclosure would undermine inter alia the protection of inspections, investigations and audits.

The documents containing the information you are seeking are covered by those exception.

I would also like to draw your attention to Recital 15 to Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) (OJ 1999 L 136, p. 1) which provides:

" ..., for the sake of successful cooperation between the Office, the Member States and the relevant institutions, bodies, offices and agencies, the reciprocal exchange of information must be organised, subject to rules of confidentiality where information is subject to professional secrecy, ..." (emphasis added)

I can thus only provide you with the audit reports which the Court has prepared concerning the European Agency for Fundamental Rights in Vienna. These are the regular annual reports on the accounts of the Agency. After final adoption, these reports are published in the Official Journal of the

European Union. The link to the electronic version of the latest reports are:

Copy of the report for the 2011 financial year:
<http://eca.europa.eu/portal/pls/portal/docs/1/19640968.PDF>

Copy of the report for the 2010 financial year:
<http://eca.europa.eu/portal/pls/portal/docs/1/11222951.PDF>

We draw your attention to the fact that, pursuant to Article 7 of Decision No. 12/2005, you may make a confirmatory application, within 15 working days of receiving its reply, and ask the ECA to reconsider its position.

Sincerely,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

08/07/2013 08:02:38

From: [REDACTED]
To: eca-info@eca.europa.eu
Date: 08/07/2013 08:02
Subject: Re: access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

Dear European Court of Auditors,

In relation to point 3 of my initial request (Audit Report on FRA procurement procedure for "Provision of legal services to FRA staff"), I would like to outline that I request access to the signed version of documents audited at FRA.

Last week FRA published its assignments to lawyers http://www.asktheeu.org/en/request/tender_file_for_provision_of_leg and is apparent that several forms used for payment are not signed. I request information on the validity of those not signed purchase orders. Some of the orders are signed only by FRA. I would like to know if those orders were used for payment or if there exists an other version used.

Also is apparent that the legislation used by FRA for procuring legal services is different to the legislation applicable to the rest of EU institutions and agencies. At FRA legal services are treated as "goods", there is no tender dossier, no prior advertisement, no post publication, etc.

[REDACTED]
[REDACTED]
I request information about which legislation for contracting matters are applicable at FRA.

In order to allow you to make a full view on my requests see details here

[REDACTED]
[REDACTED]
and here
[REDACTED]
[REDACTED]

Yours faithfully,

-----Original Message-----

Thank you for your email of 20 June 2013 in which you request documents which contain information on audits that may have been done at FRA and possible ECA collaboration with OLAF regarding FRA. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by 10 July 2013.
Kindest regards,

Aidas Palubinskas

From: [REDACTED]
To: information requests at European Court of Auditors
<[European Court of Auditors request email]>
Date: 20/06/2013 09:42
Subject: access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

1. Audit reports and its annexes for the contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights. Details for the particular contracts I refer could be found here

[1]
http://ec.europa.eu/justice/newsroom/files/decision_just_2012_prog_ag_ad_en.pdf

[2]

[3][http://\[REDACTED\]](http://[REDACTED])

[4]
[http://\[REDACTED\]](http://[REDACTED])

2. Relevant information and related documents on respect of collaboration of Court of Auditors with OLAF on these cases

[5]
http://[REDACTED]

3. Audit Report on FRA procurement procedure for "Provision of legal services to FRA staff" .

[6]http://[REDACTED]

Yours faithfully,
[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If [European Court of Auditors request email] is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] on email [email address]

This message and all replies from European Court of Auditors will be published on [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]

Disclaimer: If you have received this message in error, please contact the sender immediately.

Avertissement : Si ce message vous a été adressé par erreur, nous vous prions de vous mettre immédiatement en rapport avec l'expéditeur.

References

Visible links

1.

http://ec.europa.eu/justice/newsroom/files/decision_just_2012_prog_ag_ad_en.pdf

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

5.

http: [REDACTED]
0 [REDACTED]

http: [REDACTED]
7 [REDACTED]

Please use this email address for all replies to this request:
[REDACTED]

This message and all replies from European Court of Auditors will
be published on the [REDACTED] For more information see
our dedicated page for EU public officials at
[REDACTED]



Re: Internal review of access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

ECA-INFO to: [REDACTED]

09/07/2013 11:20

Sent by: Aidas PALUBINSKAS

Cc: information requests at European Court of Auditors

Bcc: [REDACTED]

Dear [REDACTED]

Thank you for your request for reconsideration of 09 July 2013. In accord with Decision 12/2005 of the Court of Auditors regarding public access to Court documents, it will be handled within 15 business days.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

09/07/2013 10:55:55

From: [REDACTED]

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 09/07/2013 10:55

Subject: Internal review of access to information request - Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights

Dear European Court of Auditors,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of European Court of Auditors's handling of my FOI request 'Audit Reports on Contracts concluded by European Commission and FRA Vienna with Danish Institute for Human Rights'.

Confirmatory application.

1. In relation to your argument below:

"According to Article 162 paragraph 1 of the Financial Regulation (Regulation No 966/2012), the Court's audit observations, submitted to the auditee concerned "must remain confidential". Only those observations that the Court has decided to include in its final report may be disclosed to the public", I request access to observations and preliminary findings related to these 2 Reports by Court of Auditors for 2009 and 2010, which have Observations included in the final report

<http://eca.europa.eu/portal/pls/portal/docs/1/11418739.PDF>

<http://eca.europa.eu/portal/pls/portal/docs/1/11222951.PDF>

For 2011 Report I request access to a piece of information, namely if the Court audited this Contracts

http://fra.europa.eu/sites/default/files/fra_uploads/2046-F-SE-10-03-T02-Award-notice.pdf

concluded by FRA with Danish Institute for Human Rights. If yes, I request access to the documents used in the preparation of any existing observations.

In this respect, see Article 4, paragraph 2 of the Court of Auditor's Decision (No 12 /2005) on public access to Court Documents which states, with reference to the FR, that the Court shall refuse access to its audit observations but may grant access to documents used in the preparation of those observations (may refuse but also or may grant).

I invoke the same jurisprudence as the one invoked here
[REDACTED]

"In accordance to p. 165 of Judgment of the Civil Service Tribunal of 2 May 2007 in Case F-23/05: "it has to be recognized that a culture of accountability has grown up within the Community institutions, responding in particular to the concern of the public to be informed and assured that malfunctions and frauds are identified and, as appropriate, duly eliminated and punished. The consequence of that requirement is that officials and other servants who hold posts of responsibility within an administration such as the Commission must take into account the possible existence of a justified need to communicate a degree of information to the public".

Relying on this jurisprudence and on the precedence created by EDPS, which granted access to documents following a confirmatory application (see above the link to EDPS approval) I request a review of your decision and request access to the observations CoA used in respect of Audit for 2011 at FRA and European Commission.

I also rely on the fact that the FRA and EC Contractor (DIHR/IMR) is suspect of fraud

http://[REDACTED]

as can be seen in several postings in this website and therefore the jurisprudence mentioned above is fully and dully justified to be applied (right of public to know how public money are used).

I also remind you about my request to access the Audit Report on FRA procurement procedure for "Provision of legal services to FRA staff".

In light of the above, I request a review of your decision and approval of my requests to access the requested documents.

A full history of my FOI request and all correspondence is available on the Internet at this address:
[REDACTED]

Yours faithfully,
[REDACTED]

Please use this email address for all replies to this request:
[REDACTED]

This message and all replies from European Court of Auditors will be published [REDACTED]. For more information see our dedicated page for EU public officials at
h [REDACTED]



Re: access to information request - On-the-spot audits to private sector beneficiaries, professional secrecy obligations

ECA-INFO to: [REDACTED]
Sent by: Aidas PALUBINSKAS

09/07/2013 11:54

Cc: information requests at European Court of Auditors
Bcc: Florence FORNAROLI, Johan VAN DAMME

Dear [REDACTED]

According to paragraph 4 of article 6 of Decision no 12/2005 regarding public access to Court Documents, when the application relates to a very long document or to a very large number of documents, the time limit provided for in paragraph 3 of article 6 may be extended for another 15 business days. Because your application relates to a very large number of documents, we are extending the time limit by 15 days. We will respond to your application by the end of the day on 30 July 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

20/06/2013 08:07:57

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 20/06/2013 08:07
Subject: access to information request - On-the-spot audits to private sector beneficiaries, professional secrecy obligations

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

All requested documents drawn up by the Court concern on-the-spot audits of a private sector beneficiary (e.g. a company) and the 'measures' of the Court to protect and safeguard the information of third parties in relation to an auditee, in particular information that is subject to professional secrecy according to article 339 TFEU.

As a hypothetical example to illustrate the scope of the present application, consider the case where the Court inspects an agreement between an auditee and a third party regarding, inter alia,, some financial transaction under the scope of the audit. It is probable that the agreement has a wider scope than the audit itself, perhaps about other transactions that have nothing to do with the beneficiary's subsidies from the Union's budget. By consulting the agreement, staff of the Court may become aware of information that is commercially sensitive and is not related at all with the Court's audit of the beneficiary. Furthermore, it cannot be excluded that the staff refrain from requesting and obtaining copies of such agreements for inclusion in the audit file. Consequently, copies of such agreements might end up in the audit file held by the Court.

It is clarified that all requested documents are internal documents of the Court, in the sense that they are not published in the

Court's web site. Therefore, the published Financial and Compliance Audit Manual of the Court is not within the scope of the present application. Similarly, International Audit Manuals according to which the Court conducts its audit work are not within the scope of the application. It is reiterated that the requested documents solely concern (a) the protection of information regarding private sector entities other than the auditee obtained/collected from a private sector beneficiary and definitely not information/documents obtained from audits of a Public Administration, and (b) the information comes into the knowledge of the Court's staff in an on-the-spot audit of a private sector entity in a Member State.

I would be grateful if the Court would release copies of the following documents:

1. Internal 'guidelines' (or equivalent) to its staff setting out some kind of a 'limit' as to what information they will make enquiries about in an on-the-spot audit.
2. Internal 'guidelines' (or equivalent) to its staff setting out some kind of a 'limit' as to what kind of documents of the auditee, or parts thereof, the Court's staff will copy for inclusion in the audit file.
3. For a single audit announced in 2011, (i) a redacted version of a Court's letter (drawn up in 2011) informing a private sector entity in a Member State about the conduct of an on-the-spot audit, including all annexes thereto, (ii) subsequent letters addressed to the auditee up to the conduct of the on-the-spot audit and annexes thereto, (iii) letters (notes) addressed to National Audit Bodies about that particular audit and annexes thereto, and (iv) letters (notes) addressed to the European Commission about that particular audit and annexes thereto. The letters (notes) under (iii) and (iv) are documents drawn up until the conduct of the on-the-spot audit.
4. For the same audit under (3) above, (i) a redacted version of the 'On-the-spot audit report', or equivalent, drawn up by the Court's staff after the completion of the on-the-spot audit, and (ii) the document(s) containing the list(s) of documents copied from the audit (or parts thereof) for inclusion in the audit file. The document(s) under (ii) may be considered as some kind of 'statement of contents' of the audit file, as of, say, a few months, after the conduct of the on-the-spot audit.
5. For the same audit under (3) above, a redacted version of the Court's main letter addressed to the auditee setting out the main findings of the audit.
6. For the same audit under (3) above and in case the Court notified the National Audit Body or the European Commission about its findings, a redacted version of the Court's letter (or note) addressed to the Body and the Commission setting out the main findings of the audit.

The requests under (3) to (6) above concern a single audit. It is left to the Court to select according to its own convenience any particular audit, provided that the audit was conducted (descending order of preference) in 1-Greece, 2-Cyprus, 3-U.K., 4. Ireland, 5-Malta, 6-France, 7-Belgium, 8-Italy, 9-Spain.

In my view, the redacted documents will be produced by expunging from the original documents the parts allowing to infer the identity of the auditee, third parties and natural persons.

The Court's Decision 12/2005 provides for several exceptions, but in my view none is applicable to the present requests. The

provision of article 4(2) 'In accordance with the rules governing confidentiality laid down in Articles 143(2) and 144(1) of Council Regulation EC, Euratom) No 1605/2002' applies to the Court's observations addressed to an Institution and not to an auditee. In any case, none of the exemptions of the Decision 12/2005 is applicable to the documents requested under (1) to (3).

Arguably, an overriding public interest concerns the requested documents, because the subject matter of the application is the Court's observance of article 339 TFEU. A refusal of the Court to release, fully or partially as the case may be, any of the requested document may, rightly, be interpreted as the Court's refusal to subject itself to public scrutiny about its strict observance of article 339 TFEU regarding third parties (not an auditee) in the framework of its own on-the-spot audits of private sector beneficiaries.

Should the Court find that the application is not sufficiently precise, please advise me.

Yours faithfully,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on [REDACTED]. For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Access to documents requests in 2011 and 2012

ECA-INFO to: [REDACTED]

11/07/2013 15:15

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 11 July 2013, where you request documents/records providing a detailed list of all the access to documents requests received by the European Court of Auditors in the calendar years 2011 and 2012. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of the business day of 01 August 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED]
11/07/2013 14:10:06

From: [REDACTED]

<ask+request-051-215a1b2f@asktheeu.org>

To: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 11/07/2013 14:10

Subject: access to information request - Access to documents requests in 2011 and 2012

Dear Sir/Madam,

In line with the right of access to EU documents, and further to ECA Decision 12/2005, we [REDACTED]
[REDACTED] are hereby writing to request access to all documents/records providing a detailed list of all the access to documents requests received by the European Court of Auditors in the calendar years 2011 and 2012, which should indicate in particular:

- a) The subject of the request made (i.e. the specific document(s)/record(s) requested);
- b) The (type of) requestor;
- c) How the request was submitted/received (online form, direct email, via [REDACTED] phone, mail or other);
- d) The initial decision on the request, including the basis upon which any refusals to grant access were made (prior to any confirmatory applications);
- e) Whether the institution consulted with third parties (including other institutions and outside parties) prior to responding to the request;
- f) Whether or not the initial refusal or partial refusal resulted in a confirmatory application;

g) Whether the confirmatory application was successful or partially successful (ie. it resulted in a partial revision of the initial response), or whether the confirmatory application resulted in a confirmation of the initial denial;

h) Whether or not partial access was granted to the documents;

i) Whether or not access to the entirety of the document requested was denied;

j) The time taken to deal with each request (i.e. including confirmatory applications, where applicable);

k) The number of times the deadline was extended, the amount of time it was extended for, and the reasons for the extension;

l) Whether the requester was asked to clarify or narrow their request, or to provide more information about themselves or about the reasons for their request.

Should an overview record listing the above-mentioned information for each individual request not be held by your institution, we would like to request the individual files related to all access to documents requests received in the calendar years 2011 and 2012 (i.e. the administrative correspondence providing insights to (a)-(l) above).

May we kindly request that the documents be provided in electronic format; where database records are provided, please provide these in an open, accessible format.

Thank you for your cooperation.

Yours sincerely,

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] website. For more information see our dedicated page for EU public officials at [REDACTED]

h



Re: access to information request - Court Decisions No 14-2010 and No 36-2011

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**

12/07/2013 16:47

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 12 July 2013, where you request a) Court Decision No 14-2010 and any implementing guidelines or procedure documents that relate to this decision, b) Court Decision No 36-2011 and any implementing guidelines or procedure documents that relate to this decision. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of the business day of 02 August 2013.

Kindest regards,

Aidas Palubinskas

Pablo Ballesteros

Dear Sir/Madam,

12/07/2013 16:02:58

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 12/07/2013 16:02
Subject: access to information request - Court Decisions No 14-2010 and No 36-2011

Dear [REDACTED]

In line with the right of access to EU documents, and further to ECA Decision 12/2005, we (Transparency International EU Office) are hereby writing to request access to the following documents:

a) Court Decision No 14-2010 and any implementing guidelines or procedure documents that relate to this decision.

b) Court Decision No 36-2011 and any implementing guidelines or procedure documents that relate to this decision.

May I kindly request that the documents be provided in electronic format.

Thank you for your cooperation.

Yours sincerely,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] on email [REDACTED]

This message and all replies from European Court of Auditors will be published on [REDACTED] or more information see our dedicated page for EU public officials at [REDACTED]

[REDACTED]



Re: access to information request - Presentations in January 2011 to the Court by European Commission officials, FP6 & FP7 programmes

ECA-INFO to: [REDACTED]
Sent by: **Damijan FISER**

16/07/2013 10:22

Dear [REDACTED]

Thank you for your email of 14 July 2013, in which you request the access to the documents concerning the presentations given by European Commission officials to the Court in January 2011.

Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 2 August 2013.

Kindest regards,

ECA Info

[REDACTED] Dear European Court of Auditors,

14/07/2013 11:59:12

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 14/07/2013 11:59
Subject: access to information request - Presentations in January 2011 to the Court by European Commission officials, FP6 & FP7 programmes

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

I. APPLICATION

The present application is subject to the Court's Decision No 12/2005 regarding public access to Court documents 2009/C 67/01 (henceforth the 'Decision').

The requested documents concern the presentations given by European Commission officials to the Court in January 2011, as well as any documents handed over thereafter to the Court on the occasion of the presentations. The term 'official' herein is to be understood as both a Commission official who made the presentation, as well as a co-author of a presentation, even though such co-authors may not necessarily have visited the Court in January 2011.

The term 'presentation' also means a 'training course' like the 'CETFI Course'.

Copies of the following documents are kindly requested:

1. The documents with which the Court invited the officials to make the presentations.
2. In case the initiative for the presentations was at the Commission's side, the documents with which the officials suggested to the Court the organisation of the presentations.

3. The documents with which the Court and the Commission officials agreed the dates of the presentations. By definition, such documents predate the respective presentation. There may be emails, note to the file and so on.

4. Any follow-up documents about the presentations. For instance, such documents may be emails with which the officials dispatched to the Court copies of their presentations.

5. Every single presentation the officials made to the Court in January 2011, except the presentation released by the Court on 27/7/2013 via asktheeu.org,

<http://www.asktheeu.org/en/request/584/response/1772/attach/3/DGINFSOpresentationSeminar2011%201.ppt>.

II. TRANSFER OF PERSONAL DATA

The documents applied for contain will certainly contain the personal data of the Court's and the Commission's officials, for which article 8(2) of Regulation No 45/2001 may be applicable, as well as article 4(1)(b) of the Decision.

Regarding the personal data of the Court's officials, I am not requesting the transfer of their personal data. Therefore, in my view the Court should redact what is strictly necessary in order not to disclose the identity of the Court's official(s). The Court's Unit(s) to which the official(s) belong need not necessarily be redacted.

Regarding the personal data of the Commission's officials, I am not, in general, requesting the transfer of their personal data. Therefore, in my view the Court should redact what is strictly necessary in order not to disclose the identity of those officials. However, in my view the identities of the authors and the presenters is to be released; this applies specifically to the authors whose identity is already public information. In all cases, the Units to which the Commission officials belonged should be released.

III. OVERRIDING PUBLIC INTEREST FOR PRESENTATIONS CONCERNING THE FP6 & FP7 PROGRAMMES

In the last few weeks, tens of requests have been lodged with the European Commission via asktheeu.org pursuant to Regulation No 1049/2001 about the FP6 & FP7 programmes, with particular emphasis on the fundamental right of the personal data protection.

It has already emerged that the prior notifications DG ENTR DPO-3334.1, DG INFSO DPO-3338.1, DG RTD DPO-3398 (summer of 2012), and DG MOVE-ENER DPO-3420.1 contain two false declarations, namely the statements 'This processing has been submitted to the EDPS who concluded that Article 27 is not applicable' and '3. Sub-Contractors -'. As another applicant stated, http://www.asktheeu.org/en/request/fundamental_rights_legal_advice, "When a public administration is prepared to risk criminal liabilities for the few officials who are personally liable for the factual accuracy of statutory instruments, it will not hesitate for a second to disregard a provision like article 28(2) of Regulation No 45/2001".

Consequently, every single presentation made to the Court by the former DG INFSO S.5 Unit is to be scrutinised by the public in order to see whether that Unit has attempted to mislead the Court about the Unit's external financial audits. To this end, the

organisation of the presentations is essential in order to establish how many presentations officials of the S.5 Unit gave to the Court.

The overriding public interest argument is based on the premise that when an administrative Unit of an Institution has been prepared to act like an outlaw for many years, then anything that the Unit may have attempted to do involving interactions with third-parties like the Court must be scrutinised, either to unearth further wrongful acts of the Unit, or check whether that Unit has infringed the fundamental rights of natural and legal persons enshrined in Union and national law.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - FP6 & FP7 programmes, personal data protection, legal mandate to audit on-the-spot

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**

18/07/2013 09:11

Cc: information requests at European Court of Auditors

Dear [REDACTED]

Thank you for your email of 14 July 2013, in which you request the access to a list of documents set out in your email below.

Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 7 August 2013.

Kindest regards,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

17/07/2013 18:38:15

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 17/07/2013 18:38
Subject: access to information request - FP6 & FP7 programmes, personal data protection, legal mandate to audit on-the-spot

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

I refer to the manifest personal data processing by the Court in on-the-spot audits of FP5 and FP6 contractors and FP7 beneficiaries.

One example to illustrate the depth and breadth of the personal data processing is the Court's 5-page document entitled 'Annex I, Audit Questionnaire - DAS 2011, Mission on the spot'. The document is just a multi-page 5-column table. Parts of page 1 and page 2 (first and second columns only) read:

*** Page 1 ***

3. Do the amounts in the cost declaration (form C) reconcile to the beneficiary's accounting records?

4. Verify:

- if the correct cost reporting model (FP6) or funding rates (FP7) have been used and
- if the beneficiary has an approved COM/COMAV (for FP7 only).

*** Page 2 ***

I) Personnel costs

8

- Obtain a list of all personnel involved in the indirect research

actions, indicating period(s) they worked for the project as well as their position.

- Obtain copies of employment contracts for all the relevant employees.
- Obtain list of absence dates (holidays/illnesses) for project staff

9. Was the standard personnel practice complied with? (contract type, remuneration, subordination,...)
If not, is it acceptable?

10. Is the time recording in accordance with the Commission's requirements (e.g. time sheets)?

11. Can you confirm that project staff did not record any time on the project during holidays or illness periods?

12. Is the calculation of hourly labour costs correct?

13. Is the calculation of productive hours correct?

It is striking that question no 10 is about the Commission's requirements about time-recording, that is to say one of the two contracting parties, and with no reference to the Union law or contractual provisions. It is not immediately obvious that such an attitude is fully in line with verifying the legality of transactions.

Copies of the following documents drawn up by the Courts are kindly requested:

1. The internal documents drawn up prior to 31/12/2012 setting out a legal analysis about the lawfulness of the Court's personal data processing of third parties to the FP5-FP6-FP7 audited contracts (i.e. the persons the contractor-beneficiary charged to the audited projects), except those drawn up by the Data Protection Officer.

2. The documents drawn up by the Data Protection Officer prior to 31/12/2012 setting out a legal analysis about the lawfulness of the Court's personal data processing of third parties to the FP5-FP6-FP7 audited contracts (i.e. the persons the contractor-beneficiary charged to the audited projects).

3. The article 25 of Regulation 45/2001 prior notification in force in 2009 covering the Court's personal data processing of third parties to the audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

4. The article 25 of Regulation 45/2001 prior notification in force in 2010 covering the Court's personal data processing of third parties to the audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

5. The article 25 of Regulation 45/2001 prior notification in force in 2011 covering the Court's personal data processing of third parties to the audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

6. The article 25 of Regulation 45/2001 prior notification in force in 2012 covering the Court's personal data processing of third parties to the audited FP5, FP6 and FP7 contracts, that is to say

the persons the contractor-beneficiary charged to the audited projects.

7. A sample of 10 documents drawn up in 2009 pursuant to article 12(1) of Regulation 45/2001 regarding the manifest personal data processing by the Court of third parties to the audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

8. A sample of 10 documents drawn up in 2010 pursuant to article 12(1) of Regulation 45/2001 regarding the manifest personal data processing by the Court of third parties to the audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

9. A sample of 10 documents drawn up in 2011 pursuant to article 12(1) of Regulation 45/2001 regarding the manifest personal data processing by the Court of third parties to the audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

10. A sample of 10 documents drawn up in 2012 pursuant to article 12(1) of Regulation 45/2001 regarding the manifest personal data processing by the Court of third parties audited FP5, FP6 and FP7 contracts, that is to say the persons the contractor-beneficiary charged to the audited projects.

11. In view of employment contracts most definitely containing information covered by the professional secrecy obligations of article 339 TFEU (even arguably business secrets), the document(s) setting out an analysis of how the Court's manifest processing of such information - in particular in view of the circumstances of the processing (e.g. keeping completely in the dark the third parties to the audited projects about it) -, has been compliant with the EU Courts case law, in particular the Cases 53/85 Akzo, T-353/94 Postbank, T-198/03 Bank Austria Creditanstalt (§29-34, §71-74).

12. The documents setting out an analysis of the lawfulness of the Court's processing of personal data originating from the Research family DGs. In this context, it is pointed out that the Research family DGs have breached numerous provisions of Union and national law on personal data protection, with the crown of the illegalities being the two false statements in DG ENTR DPO-3334.1, DG INFSO DPO-3338.1, DG RTD DPO-3398.1 (summer 2012), and DG MOVE-ENER DPO-3420.1 'This processing has been submitted to the EDPS who concluded that Article 27 is not applicable' and '3. Sub-Contractors -'.

13. The documents setting out an analysis of the lawfulness of the Courts on-the-spot audits of FP5-FP6-FP7 contractors with its own staff and at the premises of the contractors, in particular what provisions of Union law authorising the Court to do so. Some considerations about it are given further below.

14. Regarding any ten (10) on-the-spot audits of FP5-FP6-FP7 contractors by the Court in the period 2009-2012, the documents with which the Court notified the relevant national audit body pursuant to article 287(3) TFEU 'In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments'. In identifying those 10 audits, the applicant's kindly requests that the Court select the 10 audits on the basis of the language of the correspondence, which is in decreasing order: (1) English, (2) Greek, (3) French, (4) Italian, (5) Spanish.

OVERRIDING PUBLIC INTEREST

1. Fundamental right of personal data protection

To appreciate the seriousness of the matters and the public's great interest, the Court's staff may find useful to read the legal analysis in a very recent application pursuant to Regulation No 1049/2001 (Gestdem 2013/3761) at the asktheeu.org, http://www.asktheeu.org/en/request/dg_infso_ict_for_transport_manag.

Requests #1 to #12 concern the fundamental right of personal data protection. Full release is necessary, except the personal data in the documents of requests #7 to #10.

2. Court's mandate to audit on-the-spot and at their premises FP6 contractors and FP7 beneficiaries

The following paragraphs outline the applicant's doubts about to what extent the Court is duly authorised to audit FP6 contractors and FP7 beneficiaries on-the-spot and in a Member State.

As a preliminary observation, the Court is neither a Court of Law nor a Tribunal and therefore it is not covered by the principle of sincere cooperation between the Judicial Authorities of the Union and those of the Member States. Principles like the unfettered evaluation of evidence lawfully produced before a Court of Law do not apply to the Court of Auditors.

Article 142 of Regulation No 1605/2002, as amended (in force until 31/12/2012), concerns on-the-spot audits at the premises of an Institution and not in the premises of a contractor-beneficiary.

Article 18(4) of Regulation No 2324/2002 FP6 Rules of Participation reads:

"4. Pursuant to Article 248(2) of the Treaty, the Court of Auditors may verify the use of the Community's financial contribution"

In my view, this provision does not expressly authorise the Court to audit a FP6 contractor in a Member State. Furthermore, a 'verification of the use' is not necessarily a financial audit per se.

Article 19(10) of Regulation No 1605/2006 FP7 Rules of Participation reads:

"10. The model grant agreement shall provide for supervision and financial control by the Commission or any representative authorised by it, and the Court of Auditors."

This provision merely mandates the insertion into the grant agreement of a contractual right of the Court of Auditors for 'financial control'. It does not expressly state that the 'financial control' will take place at the beneficiary's premises. In addition, the Court will carry out the 'financial control' pursuant to a provision of a private law contract (FP7.II.22) and not pursuant to Union law. There are fundamental legal differences between a contractual 'financial control' and a 'financial control' pursuant to Union law.

As the EU Courts have always held, any intervention in a Member State by an Institution into the private affairs of private law legal person needs to have a clear and unambiguous mandate in Union law. Article 7 of Regulation No 2185/96 and article 20 of Regulation No 1/2003 are two examples of Union law expressly authorising the Commission to carry out on-the-spot inspections.

Union law expressly provides that the economic operators are required to submit to those inspections. The former provides for the assistance of the competent national authorities to the Commission inspectors in case of non-submission by the economic operator. The latter provides inter alia for the imposition of severe administrative fines in case of non-submission. In other words, when the EU legislature intended to confer on an Institution to power to intervene in the private affairs of an economic operator for the public interest, not only did it expressly state it in the legislative act, but it also included provisions for dealing with cases of non-submission or non-compliance. There is absolutely nothing of this kind of clarity for the Court's on-the-spot audits of FP6 contractors and FP7 beneficiaries.

We will now examine the provisions of article 287(3) TFEU that indeed provides for on-the-spot audits:

"The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Union, on the premises of any body, office or agency which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Union, any bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task."

In my view, the provisions of article 287(3) TFEU by no means imply that Union law authorises the Court of Auditors to audit on-the-spot a FP6 contractor or a FP7 beneficiary. Some key reasons are:

- The FP6 contract and the FP7 grant agreement is a private law contract. By definition, they are outside the mainstream of Union law.
- If article 287(3) were to be interpreted as covering indiscriminately anyone who has received payments from the budget, then the Court would be entitled to audit any private-sector landlord of a Commission building, any local bookstore that sold 100-Euro worth stationery to an Agency, even audit the personal finances of every single member of staff of an Institution and the Judges of the Court of Justice. After all, officials do indeed receive payments from the budget. It will be even more interesting to see how a Court's audit of a senior official of an Institution pursuant to article 287(3) TFEU can be reconciled with diplomatic immunity of those officials.
- If the Ministry of Defence were a party to a FP7 grant agreement, the Court would be entitled to audit its accounts relating to the FP7 action.

Of course, article 287(3) TFEU is not that far wide-ranging. It solely concerns recipients of payments from the budget pursuant to Union law, such as subsidies for agriculture for which there is

some kind of universal right to receive a subsidy, provided that all the conditions of Union law are satisfied by the recipient.

It cannot be argued that it applies to private law contracts awarded pursuant to competitive call for tenders and calls for proposals like a FP6 contract or FP7 grant agreement. It is the very competition that ensures the 'best value for money' for a tender or an FP7 call for proposals, and essentially renders a financial audit meaningless.

Why such financial audits are in the FP6 contracts and FP7 grant agreements is another matter. Suffice it to say for now, that the FP7 grant agreement has even more bizarre provisions like article FP7.II.13 that deals with personal data rights of legal persons and 'grants' a right for recourse to the EDPS to legal persons.

The ultimately logical conclusion of a blanket extension of article 287(3) TFEU to audit on the spot any entity that has received payments from the budget, regardless of the legal basis of the payment, is that the Court is entitled to audit a 50 billion company for a commercial transaction corresponding to an invoice of just 10 Euro to an Institution. It is not sure that the draftsmen of the TFEU had that in mind.

In view of the above considerations, it is evident that there is an overriding public interest for the full release of the documents under requests #13 and #14 above.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on [REDACTED] For more information see our dedicated page for EU public officials at [REDACTED]

[REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for ECHA for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]

18/07/2013 09:23

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

The reports that you have requested can be found here:

http://eca.europa.eu/portal/page/portal/publications/auditreportsandopinions/specificannualreports/specificannualreportsdetailed?mo=containsany&ms=&p_action=SUBMIT&pg=&fi=-1&fs=&pu=0&l=&ci=&pi=2017548%2C0&rt=items&ii=49717%2C0&st=Advanced&saa=ALL

According to Article 162 paragraph 1 of the Financial Regulation (Regulation No 966/2012), the Court's audit observations, submitted to the auditee concerned "must remain confidential". Only those observations that the Court has decided to include in its final report may be disclosed to the public.

Article 4, paragraph 2 of the Court of Auditor's Decision (No 12 /2005) on public access to Court Documents states, with reference to the FR, that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations.

Article 4, paragraph 3 of Decision No 12 /2005 states that the Court is to refuse access to a document where disclosure would undermine inter alia the protection of inspections, investigations and audits.

The preliminary observations you have requested are covered by this exception.

We draw your attention to the fact that, pursuant to Article 7 of Decision No. 12/2005, you may make a request for reconsideration within 15 working days of receiving this reply, and ask the ECA to reconsider its position.

Sincerely,

Aidas Palubinskas

[REDACTED] Dear European Court of Auditors,

29/06/2013 13:12:39

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 29/06/2013 13:12
Subject: access to information request - Audit Report and all Preliminary findings for ECHA for 2010, 2011 and 2012

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Report and all Preliminary findings for European Chemicals Agency (ECHA) for 2010, 2011 and 2012. If available, preliminary findings for 2013.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on [REDACTED]. For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for EASA for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]

18/07/2013 09:23

Sent by: **Aidas PALUBINSKAS**

Cc: information requests at European Court of Auditors

Dear [REDACTED]

The reports that you have requested can be found here:

http://eca.europa.eu/portal/page/portal/publications/auditreportsandopinions/specificannualreports/specificannualreportsdetailed?mo=containsany&ms=&p_action=SUBMIT&pg=&fi=-1&fs=&pu=0&l=&ci=&pi=7879%2C0&rt=items&ii=49717%2C0&st=Advanced&saa=ALL

According to Article 162 paragraph 1 of the Financial Regulation (Regulation No 966/2012), the Court's audit observations, submitted to the auditee concerned "must remain confidential". Only those observations that the Court has decided to include in its final report may be disclosed to the public.

Article 4, paragraph 2 of the Court of Auditor's Decision (No 12 /2005) on public access to Court Documents states, with reference to the FR, that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations.

Article 4, paragraph 3 of Decision No 12 /2005 states that the Court is to refuse access to a document where disclosure would undermine inter alia the protection of inspections, investigations and audits.

The preliminary observations you have requested are covered by this exception.

We draw your attention to the fact that, pursuant to Article 7 of Decision No. 12/2005, you may make a request for reconsideration within 15 working days of receiving this reply, and ask the ECA to reconsider its position.

Sincerely,

Aidas Palubinskas

ECA-INFO

[REDACTED] thank you for your email of 2...

01/07/2013 08:29:19

From: ECA-INFO/Eca

To: [REDACTED]

Cc: information requests at European Court of Auditors <eca-info@eca.europa.eu>

Date: 01/07/2013 08:29

Subject: Re: access to information request - Audit Report and all Preliminary findings for EASA for 2010, 2011 and 2012

Sent by: Aidas PALUBINSKAS

[REDACTED]

Thank you for your email of 29 June 2013 in which you request documents which contain information on our report and all preliminary findings for European Aviation Safety Agency for 2010, 2011 and 2012. If available, preliminary findings for 2013. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 19 July 2013.

Kindest regards,

Aidas Palubinskas

From: [REDACTED]
To: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 29/06/2013 13:11
Subject: access to information request - Audit Report and all Preliminary findings for EASA for 2010, 2011 and 2012

Dear European Court of Auditors,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Report and all Preliminary findings for European Aviation Safety Agency (EASA) for 2010, 2011 and 2012. If available, preliminary findings for 2013.

Yours faithfully,

[REDACTED]

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via [REDACTED]

Please kindly use this email address for all replies to this request: [REDACTED]

If eca-info@eca.europa.eu is the wrong address for information requests to European Court of Auditors, please tell the [REDACTED] team on email [REDACTED]

This message and all replies from European Court of Auditors will be published on the AsktheEU.org website. For more information see our dedicated page for EU public officials at [REDACTED]



Re: access to information request - Audit Report and all Preliminary findings for EEA for 2010, 2011 and 2012

ECA-INFO to: [REDACTED]
Sent by: **Aidas PALUBINSKAS**

18/07/2013 09:24

Cc: information requests at European Court of Auditors

Dear [REDACTED]

The reports that you have requested can be found here:

http://eca.europa.eu/portal/page/portal/publications/auditreportsandopinions/specificannualreports/specificannualreportsdetailed?mo=containsany&ms=&p_action=SUBMIT&pg=&fi=-1&fs=&pu=0&l=&ci=&pi=7927%2C0&rt=items&ii=49717%2C0&st=Advanced&saa=ALL

According to Article 162 paragraph 1 of the Financial Regulation (Regulation No 966/2012), the Court's audit observations, submitted to the auditee concerned "must remain confidential". Only those observations that the Court has decided to include in its final report may be disclosed to the public.

Article 4, paragraph 2 of the Court of Auditor's Decision (No 12 /2005) on public access to Court Documents states, with reference to the FR, that the Court shall refuse access to its audit observations and may also refuse access to documents used in the preparation of those observations.

Article 4, paragraph 3 of Decision No 12 /2005 states that the Court is to refuse access to a document where disclosure would undermine inter alia the protection of inspections, investigations and audits.

The preliminary observations you have requested are covered by this exception.

We draw your attention to the fact that, pursuant to Article 7 of Decision No. 12/2005, you may make a request for reconsideration within 15 working days of receiving this reply, and ask the ECA to reconsider its position.

Sincerely,

Aidas Palubinskas

ECA-INFO

[REDACTED], Thank you for your email of 2...

01/07/2013 08:28:53

From: ECA-INFO/Eca
To: David Nicholson <ask+request-615-1071c505@asktheeu.org>
Cc: information requests at European Court of Auditors <eca-info@eca.europa.eu>
Date: 01/07/2013 08:28
Subject: Re: access to information request - Audit Report and all Preliminary findings for EEA for 2010, 2011 and 2012
Sent by: Aidas PALUBINSKAS

[REDACTED]

Thank you for your email of 29 June 2013 in which you request documents which contain information on our report and all preliminary findings for European Environment Agency) for 2010, 2011 and 2012. If available, preliminary findings for 2013. Under the terms of Decision No 12-2005 of the Court of Auditors regarding public access to Court documents you will receive a reply within 15 working days, that is by the end of business on 19 July 2013.

Kindest regards,