



EUROPEAN COMMISSION
INTERNAL AUDIT SERVICE

Director-General
The Internal Auditor

Brussels,
IAS/PT/MC/dac

Mr Tasos Ntetsikas

XXXXXXXXXXXXXXXXXXXXXXXXXXXX@XXXXXXXX.XXX

Subject: Your application for access to documents – Ref. GestDem No 2013/5195 of 21/10/2013 under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents

Dear Sir,

We refer to your email dated 18 October 2013 by which you make a request for access to documents concerning internal audits of the control strategy for on-the-spot control and fraud detection and protection of DG INFSO and DG RTD, registered by the Internal Audit Service with the above-mentioned reference number on 21 October 2013.

1. SCOPE OF YOUR APPLICATION

Your application concerns the following documents:

I. DG INFSO Control Strategy for on-the-spot control and fraud prevention and detection.

- R1. The documents DG IAS dispatched to DG INFSO about the preparation of the field audit activities.*
- R2. The meeting minutes of meetings between DG IAS and DG INFSO*
- R3. The note(s) to file of DG IAS*
- R4. The DG IAS final audit report of DG INFSO*
- R5. The ‘statement of contents’ of the DG IAS audit file within the meaning of the Case of the General Court T-437/08, CDC Hydrogene Peroxide v Commission*

II. DG RTD Control Strategy for on-the-spot control and fraud prevention and detection.

- R6. The documents DG IAS dispatched to DG RTD about the preparation of the field audit activities.*
- R7. The meeting minutes of meetings between DG IAS and DG RTD*
- R8. The note(s) to file of DG IAS*
- R9. The DG IAS final audit report of DG RTD*
- R10. The ‘statement of contents’ of the DG IAS audit file within the meaning of the Case of the General Court T-437/08, CDC Hydrogene Peroxide v Commission*

2. IDENTIFICATION OF THE RELEVANT DOCUMENTS AND REASONS FOR FULL OR PARTIAL REFUSAL

We have identified and examined the following documents as falling under the scope of your request.

Concerning the documents under points: R1, R4, R6 and R9, we have identified:

- R1: The announcement letter to DG INFSO on the audit of the control strategy for on-the-spot control and fraud detection and protection
- R4: The IAS audit report of the control strategy for on-the-spot control and fraud detection and protection audit report of DG INFSO
- R6: The announcement letter to DG RTD on the audit of the control strategy for on-the-spot control and fraud detection and protection
- R9: The IAS audit report of the control strategy for on-the-spot control and fraud detection and protection audit report of DG RTD
- R1 and R6: the scoping memorandum to DG INFSO and DG RTD of the audit of the control strategy for on-the-spot control and fraud detection and protection

Please see attached the reports dated 6 October 2011 and 29 September respectively, along with the two announcement letters and the scoping memorandum dated 7 March as mentioned above.

Please note, that in order to protect the privacy and integrity of individuals in accordance with Union legislation regarding the protection of personal data as referred in Article 4(1)(b) of the Regulation, the personal data of individuals in the announcement letters and the scoping memorandum have been expunged.

With regard to the other documents in your request, namely R.2, R.3, R.5, R.7, R.8 and R.10, having carefully examined the content of those documents, we came to the conclusion that all those documents cannot be disclosed since their content is covered by two exceptions as laid down in Article 4 of Regulation 1049/2001 and for the reasons explained below. In any case these documents would not offer relevant information in the context of the present request as the issue of data protection was not covered by the audit.

Access to those documents would undermine the protection of:

- a) *the purpose of inspections, investigations and audits as referred in Article 4(2), third indent of the Regulation, and;*
- b) *protection of the financial interests of the EU.*

Pursuant to Article 4 of Regulation 1049/2001 “*the institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards [...] the financial [...] policy of the Community [...], the purpose of inspections, investigations and audits unless there is an overriding public interest in disclosure.*”

Although the documents refer to the two audits for which the recommendations have been closed, there are other related on-going audits in this field.

Also, the disclosure of the IAS working files would reveal information on the way in which internal audits are concretely carried out in very specific cases.

Moreover, public access to the documents requested would reveal the IAS audit methodology, which in consequence could compromise IAS future audit work, resulting in a negative impact on the budget of the EU and reducing the overall effectiveness of its internal audit capacity.

Thus, the documents requested cannot be disclosed in order to protect the Commission's internal audit capacity and the financial interests of the EU, and avoid any damage in this regard.

3. PARTIAL DISCLOSURE

We have also considered the possibility of granting partial access to the requested documents. However, the structure of those documents does not allow for such partial access without undermining the protection to the purpose of inspections, investigations and audits as referred to in Article 4(2), third indent of Regulation(EC) No 1049/2001, in particular in the light of the on-going and upcoming audits.

4. OVERRIDING PUBLIC INTEREST

The exceptions of Article 4(2) of Regulation (EC) No 1049/2001 apply unless they are waived by an overriding public interest in disclosure. For such an interest to exist it, firstly, has to be a public interest and, secondly, it has to outweigh the interest protected by the exception to the right of access. However, at this stage the IAS has not identified any arguments to demonstrate the overriding public interest within the meaning of that Regulation.

5. MEANS OF REDRESS

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

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

European Commission
Secretary-General
Transparency Unit SG-B-5
BERL 5/327
B-1049 Bruxelles
Or by email to sg-acc-doc@ec.europa.eu

Yours sincerely,

Philippe Taverne