



MA000000000933188

15

ARES (2018) 63.05763

EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR REGIONAL AND URBAN POLICY
DIRECTORATE GENERAL FOR EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

Audit

DIRECTORATE GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Assurance and Audit

The Directors

Brussels, 07. 12. 2018
REGIO/C.4/PCH/lb D(2018)7062873

Subject: Audit of the functioning of the management and control systems in place to avoid conflict of interest as required by Articles 72-75 and 125 of Regulation (EU) No 1303/2013 and Articles 60 and 72 of (EC) Regulation No 1083/2006

Audit of the functioning of the management and control systems in place to avoid conflict of interest as required by Articles 72-75 of Regulation (EU) No 1303/2013; Conformity clearance under Article 52 of Regulation (EU) No 1306/2013, Article 1 and Annex I of Regulation (EU) No 907/2014 and Article 34 of Regulation (EU) No 908/2014; Articles 65-66 of Regulation (EU) No 1305/2013 and Articles 74-75 of Council Regulation (EC) no 1698/2005

**2007CZ161PO004 Enterprise and Innovation OP
2007CZ161PO006 Environment OP
2007CZ05UPO001 Human Resources and Employment
2007CZ052PO001 Prague – Adaptability OP
2014CZ16RFOP001 Enterprise and Innovation for Competitiveness OP
2014CZ16M10P002 Environment OP
2014CZ05M9OP001 Employment OP
2007CZ06RPO001 Rural Development Programme 2007-2013
2014CZ06RDNP001 Rural Development Programme 2014-2020**

Ref.: Audit missions No REGC414CZ0133 and audit enquiry (AGRI) UMB/2019/003/CZ (*references to be used in all correspondence*)

Your Excellency

We are writing to inform you that the Directorates-General for Regional and Urban Policy (further referred to as "REGIO"), for Employment, Social Affairs and Inclusion ("EMPL") and for Agriculture and Rural Development ("AGRI") of the European Commission will carry out a co-ordinated audit in relation to the operational and rural development programmes mentioned above.

His Excellency Mr Jakub DÜRR

Ambassador Extraordinary and Plenipotentiary Permanent Representative
Permanent Representation of Czechia to the European Union
Rue Caroly 15/Carolystraat 15,
BE – 1050 Bruxelles/Brussel

The legal basis for the audit is Article 72 of Council Regulation (EU) No 1083/2006, Article 75 (1) and (2) of Regulation (EU) No 1303/2013 and Articles 47 and 52 of Regulation (EU) No 1306/2013.

The initial timetable of the on-the-spot audit missions is as indicated below:

- EMPL: from 8 to 11 January 2019;
- AGRI: from 14 to 18 January 2019;
- REGIO: from 28 January to 1st February 2019 and from 11 to 15 February 2019.

These initial audit visits can be followed by subsequent on-the-spot audit visits, as considered necessary by the Commission in order to fulfil the objectives of the co-ordinated audit. For the purpose of Article 75 of Regulation (EU) N°1303/2013 as amended, the Commission will inform the Czech authorities at the end of the initial on the spot audit period if there is a need to obtain additional information or to prolong the on-the-spot audit.

The main objectives of this co-ordinated audit are to obtain reasonable assurance that the management and control systems in place, covering the above-mentioned programmes, before the entry into force of Financial Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union:

- were compliant with the regulatory framework and functioned effectively regarding the allocation of EU Funds, from the approval of the programmes to the implementation phase, in particular in relation to measures in place and applied to avoid conflicts of interests and
- (for ERDF and ESF programmes) functioned effectively as to (i) Key Requirement 2 - Adequate selection of operations, (ii) Key requirement 4 – Adequate management verifications and (iii) Key requirement 16 – Adequate audits of operations, as defined in the regulations applicable respectively for the 2007-2013 and 2014-2020 programming periods¹
- (for Rural Development programmes) functioned effectively as to the accreditation criteria laid down in Annex I of Regulation (EU) No 907/2014 and Rural Development Key controls in particular as to Key Control 1 - Appropriate checks to ensure that the applicant fulfils all eligibility criteria of the aid scheme and/or support measure, Key Control 2 - Appropriate checks to ensure that investment/project/application fulfil all eligibility criteria as laid down in the EU legislation and the eligibility criteria as laid down in the Rural Development programmes of the Member State or region, Key Control 3 - Appropriate checks on the eligibility of the costs of the operation, Key Control 6 - Appropriate procedures for the selection and appraisal of projects or applications and Key Control 9 - Adequate verification of all payment claims (advance, intermediate and final payment claims)².

The audit will also gather information on operations/applications approved/selected after the entry into force of Financial Regulation (EU, Euratom) 2018/1046 of the European

¹ Articles 58-60 of EC Regulation (EU) N° 1083/2006 (in the 2007-2013 programming period) and Articles 72-74 and 123-125 of Regulation (EU) N° 1303/2013 (in the 2014-2020 programming period).

² Articles 74-75 of Council Regulation (EC) no 1698/2005 (for the 2007-2013 programming period) and Articles 72-74 of Regulation (EU) No 1303/2013, Articles 65-66 of Regulation (EU) No 1305/2013, Article 1 and Annex I of Regulation (EU) No 907/2014 (for the 2014-2020 programming period).

Parliament and of the Council of 18 July 2018. Further detail will be specified in the communication from each Directorate-General.

The audit will cover all aspects related to the process of allocating EU funds, from the approval of the programmes to the implementation phase, for both programming periods 2007-2013 and 2014-2020. Where there are bodies that are common to REGIO, EMPL and/or AGRI programmes, the Directorates-General will plan joint audit visits, in order to avoid any duplication of audit work and processes at the level of these bodies.

The audit work will include, for each Directorate-General, a review of the systems and procedures in place with regard to the above mentioned key requirements, including detailed tests of selected samples of files in relation to the AGROFERT group and its related companies and other possible beneficiaries for the concerned European Funds.

The audit will take place at the level of the Czech bodies involved in the process of allocating EU funds to programmes, of the Managing Authorities, Paying Agency (and, if relevant, Delegated Bodies) and Intermediate Bodies of the programmes concerned. A list of bodies subject to the audit and the detailed agenda of the audit missions will be communicated to the Czech authorities in due course by the audit teams of each Directorate-General.

The audit work carried out on the spot will consist of:

- Verification of the compliance of the management and control systems for the period before the entry into force of the new Financial regulation with the regulatory framework and its effective functioning as regards avoiding conflicts of interests in line with Article 32 par. 3 of the former Financial Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012;
- A review of the systems and procedures implemented with regard to the above mentioned key requirements on selection, management verifications and audits of operations (key requirements 2, 4 and 16) for ERDF and ESF and key controls (in particular 1, 2, 3, 6 and 9) and accreditation criteria laid down in Annex I of Regulation (EU) No 907/2014 for EAFRD;
- A detailed testing of the selected samples of operations for which companies from the AGROFERT group and other possible companies were beneficiaries, at the premises of the concerned programme authorities / intermediate or delegated bodies;
- If applicable, a review of the work done by the audit authority/certification body, including system audits and audits of operations, related to these operations.

The samples of operations to be audited will be communicated to the Czech authorities by each audit team, as soon as selected and in due course for the good preparation of the audit.

We would be grateful if you could indicate the names, telephone number and e-mail address of the contact person(s) from the Czech authorities responsible for this co-ordinated audit and for each specific audit mission. Please send the information

- for the REGIO part of the audit, to REGIO-C-DIRECTOR@ec.europa.eu
- for the EMPL part of the audit, to EMPL-G-DIRECTOR@ec.europa.eu
- for the AGRI part of the audit, AGRI-AUDIT-RD@ec.europa.eu.

The competent units responsible for this co-ordinated audit in the Directorates-General are units REGIO.C4, EMPL.G3 and AGRI.H1/H4/H5. The names, phone number and e-mail addresses of the responsible auditors will be communicated in due course by each Directorate-General to the relevant authorities.

In order to ensure a satisfactory preparation of the co-ordinated audit, each Directorate-General will send a written request to obtain a list of documents in advance of its on-the-spot audit visit. Further details regarding each audit visit, including the detailed agenda and the list of the operations and files selected, will be communicated individually following the analysis of the information received.

The Commission services would like to draw your attention to the fact that data collected during the audit may include information relating to an identified or identifiable natural person ("data subject"). Such information could be stored in the Directorates-General's audit filing systems. Regulation (EC) No 2018/1725 (OJ L 295, 21.11.2018, p.39) of the European Parliament and of the Council, applicable to Union institutions, and Regulation (EU) 2016/679 (OJ L 119, 4.5.2016, p.1), applicable to Member States, protect the right to privacy of natural persons with respect to the processing of personal data. In order to inform the data subjects of their rights, you are kindly asked to deliver the enclosed *Information notes on Protection of Personal Data collected by REGIO and EMPL (Annexes I and II)* to the bodies or organisations to be audited in the context of this co-ordinated audit.

Yours faithfully,

(e-signed)

Franck SEBERT

(e-signed)

Mark SCHELFHOUT

(e-signed)

Christina BORCHMANN

Enclosure: Annex I - Information note on Protection of Personal Data collected by
DG Regional and Urban Policy's Audit Units at the European
Commission

Annex II - Information note on Protection of Personal Data collected by
DG for Employment, Social Affairs and inclusion's Audit Units at the
European Commission

c.c.: Managing Authorities of the mentioned EFRD and ESF programmes
Paying Agency and Competent Authority of EAFRD
Mr Marc Lemaître, Director General, DG Regional and Urban Policy
Mr Joost Korte, Director General, DG Employment, Social Affairs and
Inclusion
Mr Jerzy Plewa, Director General, DG Agriculture and Rural development

Annex I - Information note on Protection of Personal Data collected by Directorate-General for Regional and Urban Policy's audit units at the European Commission

1. Introduction

This privacy statement explains the reason for the processing, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you may exercise in relation to your data (the right to access, rectify, block etc.).

The European institutions are committed to protecting and respecting your privacy. As this service/application collects and further processes personal data, Regulation (EU) N°2018/1725³, of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data, is applicable.

This privacy statement concerns external audits and controls undertaken by Directorate-General Regional and Urban Policy, hereinafter referred as DG REGIO.

2. Why do we process your data?

Purpose of the processing operation: Directorate C – Audit (referred to hereafter as Data Controller) collects and uses your personal information to verify compliance with all contractual provisions (including financial provisions), in view of checking that the action and the provisions of the grant agreement or contract are being properly implemented and in view of assessing the legality and regularity of the transaction underlying the implementation of the Community budget.

Lawfulness of the processing operation:

The processing operations on personal data carried out in the context of ex post controls are necessary and lawful under the following articles of the Regulation (EU) 2018/1725:

- article 5 (a): processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof and
- article 5 (b): processing is necessary for compliance with a legal obligation to which the controller is subject.

Exemptions and restrictions under Article 25 (1) (c) and (g) may apply. As in the context of former audits and ex-post controls the EDPS has already concluded (EDPS prior-check, case number: 2009-0565) that Article 27 is not applicable.

3. Which data do we collect and process?

The personal data collected and further processed are: all data necessary to efficiently conduct a control such as:

- Name
- Function

³ [Regulation \(EC\) N° 2018/1725](#) (OJ L 295 of 21/11/2018, p.39).

- Grade
- Activities and expertise
- Professional address
- Timesheets
- Salary
- Accounts
- Cost accounting
- Missions
- Information coming from local IT system used to declare costs as eligible
- Supporting documents linked to travel costs
- Minutes from mission and other similar data depending of the nature of the action.

No data fields fall under article 10.

4. How long do we keep your data?

Directorate C - Audit only keeps the data for the time necessary to fulfil the purpose of collection or further processing. Data is stored until 10 years after the final payment on condition that no contentious issues have occurred; in which case, data will be kept until the end of the last possible legal procedure.

5. How do we protect your data?

All data in electronic format (e-mails, documents, uploaded batches of data etc.) is stored on the servers of the European Commission, the operations of which abide by the European Commission's security decision of 16 August 2006 [C(2006) 3602] concerning the security of information systems used by the European Commission.

6. Who has access to your data and to whom is it disclosed?

Access to your data is provided to Commission services in charge of ex-post controls, and could include a possible transmission to the bodies in charge of monitoring or inspection tasks in accordance with Community law (OLAF, Court of Auditor, Ombudsman, EDPS, IDOC, Internal Audit Service of the Commission as well as external contractors). Such staff abide by statutory, and when required, additional confidentiality agreements.

7. What are your rights and how can you exercise them?

According to Regulation (EU) n°2018/1725, you are entitled to access your personal data and rectify, block or delete it in case the data is inaccurate or incomplete. You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer and if necessary the European Data Protection Supervisor using the contact information given under point 8 below.

8. Contact information

If you have comments or questions, any concerns or a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller using the

following contact information:

The Data Controller:

- Directorate C – Audit
- REGIO-AUDIT-COORDINATION@ec.europa.eu

The Data Protection Officer (DPO) of the Commission: DATA-PROTECTION-OFFICER@ec.europa.eu

The European Data Protection Supervisor (EDPS): EDPS@edps.europa.eu.

9. Where to find more detailed information?

The Commission Data Protection Officer (DPO) publishes the register of all operations processing personal data. You can access the register on the following link: <http://ec.europa.eu/dpo-register>

This specific processing has been notified to the DPO with the following reference: DPO-3226.

Annex II - Information note on Protection of Personal Data collected by DG Employment, Social Affairs and Inclusion at the European Commission

10. Introduction

This privacy statement explains the reason for the processing, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you may exercise in relation to your data (the right to access, rectify, block etc.).

The European institutions are committed to protecting and respecting your privacy. As this service/application collects and further processes personal data, Regulation (EC) N°45/2001⁴, 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, is applicable.

This privacy statement concerns external audits and controls undertaken by DG EMPL, hereinafter referred as the operating DG.

11. Why do we process your data?

Purpose of the processing operation: Directorate G – Audit (referred to hereafter as Data Controller) collects and uses your personal information to verify compliance with all contractual provisions (including financial provisions), in view of checking that the action and the provisions of the grant agreement or contract are being properly implemented and in view of assessing the legality and regularity of the transaction underlying the implementation of the Community budget.

Lawfulness of the processing operation:

The processing operations on personal data carried out in the context of ex post controls are necessary and lawful under the following articles of the Regulation (EC) 45/2001:

- article 5 (a): processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof and
- article 5 (b): processing is necessary for compliance with a legal obligation to which the controller is subject.

Exemptions and restrictions under Article 20.1 (b) and (e) may apply. As in the context of former audits and ex-post controls the EDPS has already concluded (EDPS prior-check, case number: 2009-0565) that Article 27 is not applicable.

12. Which data do we collect and process?

The personal data collected and further processed are: all necessary data to efficiently conduct a control such as:

- Name
- Function
- Grade
- Activities and expertise
- Professional address
- Timesheets
- Salary
- Accounts

⁴ [Regulation \(EC\) N° 45/2001](#) (OJ L8 of 12/01/2001).

- Cost accounting
- Missions
- Information coming from local IT system used to declare costs as eligible
- Supporting documents linked to travel costs
- Minutes from mission and other similar data depending of the nature of the action.

No data fields fall under article 10.

13. How long do we keep your data?

Directorate G - Audit only keeps the data for the time necessary to fulfil the purpose of collection or further processing. Data are stored until 10 years after the final payment on condition that no contentious issues occurred; in this case, data will be kept until the end the last possible legal procedure.

How do we protect your data?

All data in electronic format (e-mails, documents, uploaded batches of data etc.) are stored on the servers of the European Commission the operations of which abide by the European Commission's security decision of 16 August 2006 [C(2006) 3602] concerning the security of information systems used by the European Commission;

14. Who has access to your data and to whom is it disclosed?

Access to your data is provided to Commission services in charge of ex post controls, without prejudice to a possible transmission to the bodies in charge of a monitoring or inspection task in accordance with Community law (OLAF, Court of Auditor, Ombudsman, EDPS, IDOC, Internal Audit Service of the Commission, as well as external contractors). Such staff abide by statutory, and when required, additional confidentiality agreements.

15. What are your rights and how can you exercise them?

According to Regulation (EC) N°45/2001, you are entitled to access your personal data and rectify, block or delete it in case the data is inaccurate or incomplete. You can exercise your rights by contacting the data controller, or in case of conflict the Data Protection Officer and if necessary the European Data Protection Supervisor using the contact information given at point 8 below.

16. Contact information

If you have comments or questions, any concerns or a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller using the following contact information:

The Data Controller:

- Directorate G – Audit
- EMPL-G-DIRECTOR@ec.europa.eu

The Data Protection Officer (DPO) of the Commission: DATA-PROTECTION-OFFICER@ec.europa.eu

The European Data Protection Supervisor (EDPS): EDPS@edps.europa.eu.

17. Where to find more detailed information?

The Commission Data Protection Officer publishes the register of all operations processing personal data. You can access the register on the following link: <http://ec.europa.eu/dpo-register>

This specific processing has been notified to the DPO with the following reference: DPO-3226.