



EUROPEAN COMMISSION
INTERNAL AUDIT SERVICE

Director-General
The Internal Auditor

Brussels,
IAS/PT/MC

Sent by mail to:

Mr Martin Welz
[ask+request-1096-
xxxxxxx@xxxxxxxx.xxx](mailto:ask+request-1096-xxxxxxx@xxxxxxxx.xxx)

Subject: Your application for access to documents – Ref GestDem Nr 2013/6421

Dear Mr WELZ,

I refer to your recent e-mail dated 17 December 2013 in which you request access to documents concluded in 2013 following inspections performed by the Internal Audit Service at the European Agency for Fundamental Rights: reports, notes, relevant documents and AMP; information in redacted form/partial access. The request was registered on 17 December 2013 under the reference number GestDem No 2013/6421.

As regards ‘AMP’, I would appreciate if you could specify the meaning of the acronym.

As regards the reports, notes, relevant documents, having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and the Financial Regulations (FR) Art 99(6) regarding public access to audit reports, I regret to inform you that your application cannot be granted.

As regards the reports, in accordance with Art 99(6) of the FR, “the reports and findings of the internal auditor (...) shall only be accessible to the public only after validation by the internal auditor of the action taken for their implementation”, whereas the documents which you seek to obtain relate to the ongoing audit work in the European Agency for Fundamental Rights in 2013. Furthermore, the disclosure of the reports, respective notes, relevant documents and information is prevented by the exception laid down in the Article 4(2) third indent of Regulation (EC) Nr 1049/2001.

Disclosure of the documents you requested would undermine the protection of the purpose of the ongoing audit work, as it would put into the public domain preliminary findings which have not yet been confirmed and which may be rebutted by the entity being audited; disclosure at this point in time would unduly interfere with the contradictory procedure and may undermine the rights of the entity concerned. Therefore the exception laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001 applies to these documents.

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.

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

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

European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 Bruxelles
or by email to: xxxxxxxxxxxx@xx.xxxxxx.xx

Yours sincerely,

Philippe Taverne