

Amending Decision in case 1324/2017/LM on how the European Commission appointed the Director General of its Internal Audit Service

Correspondence - 30/10/2019

Case 1324/2017/LM - Opened on 04/12/2017 - Decision on 23/07/2019 - Institution concerned European Commission (No maladministration found) |

1. The [Ombudsman's decision closing the inquiry \[Link\]](#) in the above case has been amended, as follows, to address issues raised by the complainant. The substantive outcome of the case is not affected.

2. The case abstract now reads as follows:

“ The case concerned possible conflicts of interest of the internal auditor of the European Commission, who had formerly served as the Commission's accounting officer. The complainant contended that, during a cooling off period, the internal auditor should not take part in any audit concerning financial management at the Commission. The Commission stated that it had ensured that the internal auditor would not be responsible for any audit related to his previous responsibilities. The complainant considered the measures adopted by the Commission inadequate.

The Ombudsman found that the Commission had put in place adequate measures to prevent any conflict of interest arising. She thus closed the inquiry with a finding of no maladministration.”

3. Paragraph 7 of the decision is replaced by the following wording:

“The complainant argued that, according to the provisions of the EU Financial Regulation, budget management is a shared responsibility of both the authorising officers [1] and the accounting officer. As regards the sound implementation of the budget, this is reflected in the fact that the accounting officer is responsible for validating the systems laid down by the authorising officers to supply or justify accounting information. One of the further duties of the accounting officer is to determine whether the information on which payments are based, which is provided by the authorising officers, is sound [2] . The accounting officer must thus be regarded as jointly responsible for budget management decisions.”



4. Paragraph 8 of the decision is replaced by the following wording:

“In the complainant’s view, the Commission therefore failed to ensure compliance with international audit standards [3] . In accordance with international audit standards [4] , “ *internal auditors must be objective* ” [5] and “ *have an impartial, unbiased attitude and avoid any conflict of interest* ” [6] . International audit standards further require that “ *internal auditors must refrain from assessing specific operations for which they were previously responsible. Objectivity is presumed to be impaired if an internal auditor provides assurance services for an activity for which the internal auditor had responsibility within the previous year* ” [7] . Due to the joint responsibility of the authorising officers and the accounting officer concerning financial management, an impairment of the internal auditor’s objectivity could be prevented only if, during a cooling off period of one year, he exclusively took part in activities not covered by the provisions of the EU Financial Regulation.”

5. Paragraph 16 of the decision is replaced by the following wording:

“According to the EU Financial Regulation, an institution’s internal auditor may not be at the same time an accounting officer (or authorising officer) of that institution 17 . The same person may thus not carry out operational functions at the same time as checking those functions. However, the Financial Regulation does not prohibit an accounting officer from subsequently becoming an internal auditor. At the same time, as correctly pointed out by the complainant, international audit standards set out that “ *internal auditors must refrain from assessing specific operations for which they were previously responsible. Objectivity is presumed to be impaired if an internal auditor provides assurance services for an activity for which the internal auditor had responsibility within the previous year* ”. The Ombudsman’s understanding is that, if an accounting officer subsequently becomes an internal auditor, the institution *has to put in place measures* to safeguard the objectiveness of the auditing and to ensure that the internal auditor’s function is carried out in an objective, impartial and unbiased manner. In a case like this one, which concerns the very top management of the Commission’s Internal Audit, the measures have to be particularly rigorous, also bearing in mind the importance of public perception.”

6. Paragraph 20 of the decision is replaced by the following wording:

“Regarding the measure taken by the Commission to have a Director do the internal auditing related to the internal auditor’s previous role as accounting officer, the complainant pointed out that the Director is a direct subordinate of the internal auditor and that the internal auditor may thus influence the Director’s career. The complainant argued that this casts doubt on the factual objectivity with which the Director can carry out the audit of operations for which his manager was previously responsible. The complainant contended that it is particularly worrying that the internal auditor had to draw up the Director’s staff appraisals. In the complainant’s view, the Director’s independence was threatened because he could have hoped to receive a better appraisal. He could also have been given the prospect of future career advancement.”



Emily O'Reilly

European Ombudsman

Strasbourg, 30/10/2019

[1] The authorising officer in each institution is responsible for implementing revenue and expenditure operations and for ensuring compliance with the requirements of legality and regularity.

[2] In accordance with Article 68 of the Financial Regulation. The Financial Regulation is Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012R0966-20160101&from=EN>

[Link]. See also Article 52 of Commission delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union ('Rules of Application').

[3] Article 98(1) of the Financial Regulation states that *"[e]ach institution shall establish an internal auditing function which shall be performed in compliance with the relevant international standards . The internal auditor appointed by the institution shall be accountable to the latter for verifying the proper operation of budgetary implementation systems and procedures. The internal auditor may be neither authorising officer nor accounting officer "* (emphasis added).

[4] International Standards for the Professional Practice of Internal Auditing (IPPF Standards).

[5] Standard 1100 "Independence and objectivity" of the International Standards for the Professional Practice of Internal Auditing

<https://na.theiia.org/translations/PublicDocuments/IPPF-Standards-2017-German.pdf> [Link]

[6] Standard 1120 "Individual objectivity".

[7] See standard 1130 A.1 "Impairment to independence and objectivity".

17 Article 98 of the Financial Regulation.