

Letter from the European Ombudsman to the European Commission concerning the Commission's audit regarding EU funds in Czechia

Correspondence - 05/06/2020

Case 720/2020/MIG - **Opened on** 30/04/2020 - **Decision on** 16/12/2020 - **Institution concerned** European Commission (Dropped by the complainant) |

Ms Ursula von der Leyen

President

European Commission

Strasbourg, 05/06/2020

Complaint 720/2020/EWM

Subject: The European Commission's refusal to grant public access to the final report on an audit regarding possible conflicts of interest of the X and the Czech Prime Minister - GESTDEM 2020/0663

Dear President,

I have opened an inquiry into a complaint from Mr X against the European Commission regarding public access to the final report on an audit regarding conflicts of interests of the X and the Czech Prime Minister.

My inquiry team has reviewed the requested document, that is, the final report on audit No REGC414CZ0133 concerning Czechia on the functioning of the management and control systems in place to avoid conflicts of interest.

This document and its annexes concern the Commission's actions regarding the allegations of potential conflicts of interest involving a high-level public representative and significant amounts of EU funds. Public awareness of the Commission's actions serves to inform the public whether



the Commission, and the Czech authorities, are taking, in good time, all the relevant steps to protect the financial interests of the EU and to ensure that the rule of law is respected. I consider therefore that there is a strong public interest in making this final audit report available to EU citizens at the earliest opportunity.

In its confirmatory decision of 23 April 2020 the Commission refused public access to the report on the basis that the audit process was not yet complete. [1] The Commission explained to the complainant that the authorities of the Member State in question have been asked to provide a reply to the findings of the Commission audit services by 5 June 2020.

The Ombudsman agrees in this case that the audit at issue cannot be considered *completed* pending the Member State's comments on the final report.

In the light of the significant public interest, however, it would be helpful to receive a written reply from the Commission to **confirm that the Commission will publish the final audit report proactively** once the audit has been completed.

It would also be useful to understand **at what stage the Commission will consider that the audit has been completed**. If it is possible to give an indicative time frame, that would also be helpful.

In addition, it would be useful to receive a written reply from the Commission regarding the complainant's argument that the Commission is obliged to publish the audit report after its completion if it claims to work according to the ISSAI standards, including specifically, which standards are applicable in this case and why.

Please note that I am likely to send your reply and related enclosures to the complainant for comments [2]. I would therefore be grateful if the Commission could submit a translation of the reply itself in German, which is the language of the complaint.

I would be grateful to receive the Commission's reply **by 6 July 2020**. If, in the course of this inquiry, the Commission becomes involved in court proceedings concerning the same subject matter as this complaint, I would ask you please to let us know.

Yours sincerely,

Emily O'Reilly European Ombudsman

[1] Article 4(2), third indent, of Regulation 1049/2001.

[2] If you wish to submit documents or information that you consider to be confidential, and



which should not be disclosed to the complainant, please mark them 'Confidential'. Such documents can be sent through secure channels, such as Ares, CIRCABC or equivalent applications. The case handler can be contacted beforehand, if necessary.