



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ECONOMIC AND FINANCIAL AFFAIRS
Resources and performance management
The Director

Brussels,
ECFIN/R4/MV/GG(2024)1266596

**Subject: EPM 'System audit on measures implemented to protect the financial interests of the Union'
Estonian Recovery and Resilience Plan**

Ref.: EE-Q1-2024 Fact finding mission on Public Procurement and State Aid (*to be used in all correspondence*)

Your Excellency,

I am writing to inform you that Directorate-General for Economic and Financial Affairs will carry out a fact finding mission in relation to the Estonian Recovery and Resilience Plan (hereafter “**Plan**”). The legal basis for the audit is laid down in the Financial Regulation, namely in its Articles 74(6) and 129(1) and in the Financing Agreement under Articles 11(4) and 12(1).

The audit is planned to take place (remotely by video-conference) from 20 February 2024 to 21 February 2024.

The main objective of the audit is to assess the Member State's internal control systems in their capacity to ensure compliance with EU and national law.

The audit will focus in particular on the following objectives:

- Verify that the authorities entrusted with the implementation of the measures carry out the Public Procurement (PP) and State Aid (SA) procedures according to the EU and national law.
- Verify the presence of an effective system to ensure the compliance with national and EU law, especially regarding PP and SA.

Mr. Aivo Orav

Ambassador, Permanent Representative

Permanent Representation of Estonia to the
EU

Rue Guimard 11/13, 1040, Brussels

Mr. Mart Võrklaev

Minister of Finance

Ministry of Finance

Suur-Ameerika 1, 10122 Tallinn

The measure selected to verify Public Procurement (PP) is:

| SEQUENTIAL NUMBER (AS IN CID) | NAME OF MEASURE | MILESTONE / TARGET | INDICATORS (QUANTITATIVE / QUALITATIVE) |
|-------------------------------------|--|-----------------------|--|
| EE-C[C]-I[3-4-.3-4]-T[51] | ACCESS TO DIGITAL PUBLIC SERVICES THROUGH THE VIRTUAL ASSISTANT PLATFORM | target | 1 NUMBER OF PUBLIC DIGITAL SERVICES ACCESSIBLE THROUGH THE VIRTUAL ASSISTANT |

The measure selected to verify State Aid (SA) is:

| SEQUENTIAL NUMBER (AS IN CID) | NAME OF MEASURE | MILESTONE / TARGET | INDICATORS (QUANTITATIVE / QUALITATIVE) |
|-------------------------------------|--|-----------------------|--|
| EE-C[B]-I[2-5-.2-5]-M[34] | PUBLICATION OF CALL FOR PROPOSALS FOR GRANTS | milestone | PUBLICATION OF THE NOTICE FOR CALLS FOR PROPOSALS FOR GRANTS |

The audit work to be carried out online (by video-conference) will consist of:

- 1) Inspection and review of the relevant documentation (manuals, procedures, checklists, supporting documentation, working papers, contracts etc.);
- 2) Interviews with the staff responsible;
- 3) Checks of PP and SA procedures carried out at the level of Implementing Bodies and the Audit Authority (or in case of state aid at any other responsible body).

The online audit will be conducted with the authorities responsible⁽¹⁾ for checking compliance with the applicable SA and PP rules concerning the above indicated selected measures. Additionally, the Ministry of Finance of the Republic of Estonia as the Estonian coordinating body and the Estonian Audit Authority will be invited to discuss how the checks on SA and PP rules are generally organised.

The unit in the European Commission responsible for this audit is ECFIN.R4 and the responsible auditors are Emese Pásztélyi (+32 229-91945, Emese.PASZTELYI@ec.europa.eu) and Giulia GALLI, +32 229-88200, Giulia.GALLI@ec.europa.eu.

I would be grateful if the Estonian authorities concerned would provide the information described in **Annex III**.

Further details regarding this audit, including the detailed agenda will be communicated later following the analysis of the information requested above.

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 on the servers of the

⁽¹⁾ The responsible authorities will be defined in the final agenda.

Commission. 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 note on Protection of Personal Data collected by DG Economic and Financial Affairs' Audit Unit (Annex I)* to the bodies or organisations to be audited in the context of this audit.

Yours faithfully,

Bernadette Frederick
e-signed

Enclosure: Annex I - Information note on Protection of Personal Data collected by Directorate-General for Economic and Financial Affairs' audit unit at the European Commission

c.c.: **Kaur Siruli**, Head of Financial Control Department, Ministry of Finance of the Republic of Estonia, the RRF audit body
Mart Pechter, Advisor of the Financial Control Department, Ministry of Finance of the Republic of Estonia, the RRF audit body
Triin Tomingas, Head of Foreign Financing Unit, State Budget Department, Ministry of Finance of the Republic of Estonia
Siret Soosein, Expert, State Shared Service Centre, RRP coordinator
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Annex I - Information note on Protection of Personal Data collected by Directorate-General for Economic and Financial Affairs' audit unit at the European Commission

1. Introduction

The European Commission (hereafter 'the Commission') is committed to protect your personal data and to respect your privacy. The Commission collects and further processes personal data pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, is applicable (repealing Regulation (EC) 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

This privacy statement concerns the processing operation 'External audits and controls', undertaken by the Commission (*DG ECFIN, unit R.4*) as presented below.

2. Why and how do we collect your personal data?

Purpose of the processing operation: The Commission collects and uses your personal data to do any kind of financial control including ex-ante controls, desk checks, financial verifications and audits of grant agreements or contracts to verify beneficiaries' or contractors', subcontractors' or third parties' compliance with all contractual provisions (including financial provisions), in view of checking that the provisions of the grant agreements or the contracts are being properly implemented and *in view of assessing the legality and regularity of the transaction underlying the implementation of the general budget of the Union*.

Your personal data will not be used for an automated decision-making including profiling.

3. On what legal ground(s) do we process your personal data?

The possibility for the Commission to carry out checks and financial controls is foreseen in the model grant agreement and contract signed between the Commission and the beneficiary/contractor, as required by the Financial Regulation ('FR') applicable to the General Budget of the European Communities ⁽²⁾.

We process your personal data because:

⁽²⁾ Articles 117-123 FR on internal audits, article 127 on cross-reliance audits, articles 183 and 203 FR on audits covering grant agreements and articles 254 – 259 FR on external audits by the Court of Auditors.

The processing operations on personal data carried out in the context of audit and control activities ⁽³⁾ are necessary and lawful under the following articles of the Regulation (EU) 1725/2018:

- a) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body ⁽⁴⁾;
- b) processing is necessary for compliance with a legal obligation to which the controller is subject ⁽⁵⁾.

4. Which personal data do we collect and further process?

In order to carry out any kind of financial controls, ex-ante and ex-post, the Data Controller could collect the following categories of personal data:

Mandatory:

- Mandatory contact data: name, company, e-mail address, telephone number;
- Mandatory data for access to finance and contractual obligations. Such data can be: bank account reference (IBAN and BIC codes), VAT number, passport or ID number; timesheets, salary slips, accounts, details of the costs, missions, reports, 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 grant/contract, etc.;
- Mandatory information for the evaluation of selection criteria or eligibility criteria: expertise, technical skills and languages, educational background, professional experience, including details on current and past employment;

Voluntary:

- Voluntary data: other contact details (mobile telephone number, fax number, professional postal address, function and department, country of residence);
- Voluntary data that may be collected by the website if there is consent to its cookies: IP address, language preference, etc.

⁽³⁾ The audit and control activities are varied across the Commission departments as they can be conducted at any time during the performance of the programme or project and can concern beneficiaries, projects, system, transactions, etc. depending on the needs of the contracting authority. The audit and control activities may be carried out on documents and/or on the spot, and may be carried out either before or after the final payment to the beneficiary. Audits and controls of documents may be carried out in any place where the funds in question are managed or used; the geographical scope is therefore worldwide.

The specific contract should specify what the audit and control is to cover (subject and location).

⁽⁴⁾ Article 5 (1) (a) of Regulation (EU) 2018/1725 and, in particular, Articles 317, 319 TFEU and Article 106 (a) of the Euratom Treaty.

⁽⁵⁾ In particular Articles 117, 183, 203.4 and 5, and 262 of the FR.

5. How long do we keep your data?

The Data Controller only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely for 5 years after the audit is closed on condition that no contentious issues occurred; in this case, data will be kept until the end of the last possible legal procedure.

6. How do we protect and safeguard your personal data?

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored either on the servers of the *European Commission or of its contractors (processors), if contractors are engaged to assist the controller*. All processing operations are carried out pursuant to the Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the Commission.

In order to protect your personal data, the Commission has put in place a number of technical and organisational measures in place. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

If the controller uses (a) contractor(s) (processor(s)) to assist the controller, this will be indicated in the specific privacy statement and the following paragraph will be provided:

The Commission's contractors are bound by a specific contractual clause for any processing operations of your data on behalf of the Commission, and by the confidentiality obligations deriving from the transposition of the General Data Protection Regulation in the EU Member States ('GDPR' Regulation (EU) 2016/679).

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

Access to your personal data may be provided on a 'need to know' basis to Commission services and staff dealing with the external audit or control (including those supervising/approving), inclusive of OLAF.

In addition, staff from the Council, European Parliament, European Court of Auditors may have access to your personal data. Finally, your data may be shared with national managing, certifying and audit authorities in shared management, beneficiaries/final recipients and external contractors.

The information we collect will not be given to any third party, except to the extent and for the purpose we may be required to do so by Union law, including the possible transmission of personal data to EU bodies or institutions in charge of audit or inspection in accordance with the EU Treaties.

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

You have specific rights as a 'data subject' under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, rectify or erase your personal data and the right to restrict the processing of your personal data. Where applicable, you also have the right to object to the processing or the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

9. Contact information

- The Data Controller

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller.

European Commission, *DG ECFIN, Unit R.4* at ECFIN-UNIT-R4@ec.europa.eu.

- The Data Protection Officer of the European Commission

You may contact the Data Protection Officer (data-protection-officer@ec.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

- The European Data Protection Supervisor (EDPS)

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor, https://edps.europa.eu/data-protection/our-role-supervisor/complaints_en or edps@edps.europa.eu, if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

10. Where to find more detailed information?

The Commission Data Protection Officer (DPO) publishes the register of all processing operations on personal data by the Commission, which have been documented and notified to him. You may access the register via the following link: <http://ec.europa.eu/dpo-register>.

This specific processing operation has been included in the DPO's public register with the following Record reference: **04466.1**

Annex II - ANNEX I ⁽⁶⁾ Key requirements of the Member State's control system

- 1) In compliance with Article 22(1) of the RRF Regulation, the Member State shall provide an effective and efficient internal control system, including separation of functions and reporting and monitoring arrangements. Member States may rely on their regular national budget management systems.

This includes:

- the nomination of an authority as “coordinator” having the overall responsibility for monitoring the implementation of the RRP on behalf of the Member State and being the single point of contact for the Commission;
 - that the coordinator has the (i) administrative capacity in terms of human resources (staff numbers and profiles), institutional experience and expertise, and (ii) the mandate and authority to exercise all relevant tasks, including reporting and monitoring responsibilities;
 - the identification of the authorities entrusted with the implementation of the RRP measures;
 - the identification of the authority responsible for signing the management declaration accompanying the payment requests with procedures ensuring that this authority will get assurance about the satisfactory fulfilment of the milestones and targets set in the RRP, that the funds were managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention, corruption and double funding;
 - an appropriate separation between implementation and audit functions.
- 2) In compliance with Article 22(2)(a) of the RRF Regulation, the Member State shall conduct an effective implementation of proportionate anti-fraud and anti-corruption measures, as well as any necessary measure to effectively avoid conflict of interests.

This includes:

- appropriate measures related to the prevention, detection and correction of fraud, corruption and conflict of interest, as well as avoidance of double funding and to take legal actions to recover funds that have been misappropriated;
 - a fraud risk assessment and the definition of appropriate anti-fraud mitigating measures.
- 3) In compliance with Article 22(2)(c) of the RRF Regulation, the Member State shall maintain appropriate procedures for drawing up the management declaration and summary of the audits carried out at national level.

⁽⁶⁾ This refers to Annex I of the Financing Agreement between the European Commission and the Member State in question.

This includes:

- an effective procedure for drawing up the Management Declaration, documenting the summary of audits and keeping the underlying information for audit trail;
 - effective procedures to ensure that all cases of fraud, corruption and conflict of interests are properly reported and corrected through recoveries.
- 4) To provide the information necessary for Article 22(2)(c)(i) of the RRF Regulation, the Member State shall ensure appropriate measures, including procedures for checking the fulfilment of milestones and targets and compliance with horizontal principles of sound financial management.

This includes:

- appropriate measures through which authorities entrusted with the implementation of the RRP measures will check the fulfilment of milestones and targets (e.g. desk reviews, on-the-spot checks);
 - appropriate measures through which the authorities entrusted with the implementation of the RRP measures will check the absence of serious irregularities (fraud, corruption and conflict of interest) and double funding (e.g. desk reviews, on-the-spot checks).
- 5) In compliance with Article 22(1) of the RRF Regulation and to provide the information necessary for Article 22(2)(c)(ii) of the RRF Regulation, the Member State shall conduct adequate and independent audits of systems and cases of support to investments and reforms.

This includes:

- the identification of the body/ies which will carry out the audits of systems and cases of support to investments and reforms and how its/their functional independence is ensured;
 - the allocation of sufficient the resources to this body/ies for the purpose of the RRF;
 - the effective tackling by the audit body/ies of the risk of fraud, corruption, conflict of interest and double funding both through system audits and audits of cases of support to investments and reforms.
- 6) In compliance with Article 22(2)(d) and (e) of the RRF Regulation, the Member State shall maintain an effective system to ensure that all information and documents necessary for audit trail purposes are held.

This includes:

- effective collection and storage of data on the final recipients of funds;
- access for the Commission, OLAF, ECA and EPPO (where applicable) to the data on final recipients, contractors, subcontractors and beneficial owners for the purpose of audit and control.

Annex III – List of information requested for the audit

I would be grateful if the German authorities concerned would provide the information set out below, in order to ensure a satisfactory preparation of the audit:

1. Documentation of public procurement procedures, especially:
 - a. Evidence of a competitive process
 - i. Contract notice and prior information notice, if relevant (OJEU);
 - ii. Procurement documents including technical specifications;
 - iii. Record of tenders received;
 - iv. Evidence of the opening of tenderers;
 - v. Evidence of the selection of tenders including scoring against the set criteria;
 - vi. Evidence of the evaluation of tenders including scoring against the set criteria;
 - vii. Evaluation report;
 - viii. Notifications to successful and unsuccessful tenderers;
 - ix. Formal contract;
 - x. Contract award notice (OJEU).
 - b. Evidence of an adequate implementation
 - i. Proof/acceptance of deliveries;
 - ii. Evidence that deliveries correspond to the technical specifications;
 - iii. Justification of contract modifications in specific circumstances, if relevant.
 - c. List of all RRF milestones and targets related to the payment request concerned by PP
 - d. Checks/Checklist conducted on PP.
2. Documentation on state aid (SA)
 - a. Guidance documents, procedures, instructions
 - b. List of RRF measures concerned by SA (notified, pre-notified, existing GBER, potential SA)
 - c. Checks/Checklist conducted on SA
 - d. Any other relevant documentation.

