



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL AND URBAN POLICY
Audit I
The Head of Unit

Brussels
REGIO/C2/JC/ic (2020)3824067

**Subject: Analysis of the documents submitted under Article 138(b) and (c) of Regulation (EU) No 1303/ 2013 ('the CPR') — legality and regularity aspects of the annual control report, audit opinion, management declaration and annual summary
Operational programme INTERREG Austria - Germany(Bayern)
CCI: 2014TC16RFCB004
Accounting year: 2018-2019
Fund: ERDF**

Ref.: Annual control report of 26/02/2020 (Ares(2020)1212283)
Audit Opinion, Management Declaration and Annual summary of 26/02/2020 (Ares(2020)1212589)
Letter of the Director-General of DG REGIO to the Federal Ministry of Economy and Energy in Germany [Ares(2019)7710729 – 16/12/2019]

Dear Ms Schneeweiss,

On 26/02/2020, the programme authorities sent via SFC2014 the annual control report, audit opinion, management declaration and annual summary, as referred to in points b) and c) of Article 138 of the CPR (hereafter assurance package).

On the basis of its examination, the Commission services have the following observation:

IRREGULAR EXPENDITURE RESULTING FROM THE APPLICATION OF THE HOAI RULES

The authorities are reminded about a recent ruling of the European Court of Justice on the tariff scheme for architects and engineers in Germany (Honorarordnung für Architekten und Ingenieure – HOAI) and about a letter which we sent to the German Federal Ministry of Economy and Energy on 16/12/2019 (Ares(2019)7710729).

Frau Sonja Schneeweiss
Bundesministerium für Landwirtschaft, Regionen und Tourismus
Finanzkontrolle des EFRE
Ferdinandstraße 4
A-1020 Wien

This ruling of the European Court of Justice might also affect expenditure declared by project partners located in Germany under this ETC programme. The programme authorities are therefore requested to analyse whether irregular expenditure could be present in the German part of the programme and pursue with the calculations of the irregular amounts and corrections as set out in the letter quoted above. In this letter, the Commission services propose to the German authorities to quantify the risk at 1% of the expenditure certified in the accounts as a possible estimate of the systemic error related with the relevant infringement. Alternatively, they are invited to quantify precisely the impact on each programme, focusing on expenditure concerning solely the project partners located in Germany.

The financial corrections to be applied by the programme authorities shall cover not only the irregular expenditure declared to the Commission in the accounting year 2018-2019, but also the irregular expenditure declared in previous accounting years and, if applicable, the expenditure declared in interim payment applications submitted for the accounting year 2019-2020 and future accounting years. The Commission is clarifying with the German Federal Ministry of Economy further practicalities for the implementation of the corrections.

In this context, we also invite your services to recalculate the TER and RTER where the expenditure declared to the Commission is indeed affected by the HOAI issue in order to be able to report a reliable error rate to the stakeholders.

I would be grateful if you could provide a response to the points mentioned above within **two months** of the submission date of this letter in German language via SFC2014. Please submit your reply using in SFC2014 the type of document "**MS clarifications**" under "Audit" tab ("Annual Control Report").

This assessment is without prejudice to any conclusions that the Commission could draw from any possible further on-the-spot audit work.

Yours sincerely,

(e-signed)

Marcela Buzoi
Acting Head of Unit

Enclosure: Letter sent to the German Federal Ministry of Economy and Energy on 16/12/2019 (Ares(2019)7710729)

c.c.: Bavarian Audit Office
Bayerisches Staatsministerium für Wirtschaft, Landesentwicklung und Energie – EU-Prüfbehörde
Prinzregentenstraße 28 – 80538 München

Mr Markus Gneiß
Managing Authority
Amt der Oberösterreichischen Landesregierung – Abteilung
Raumordnung – Koordinierungsstelle für EU-Regionalpolitik
Bahnhofplatz 1 – A-4021 Linz

Mr Roland Borsch
Certifying Authority
Bayerisches Staatsministerium für Wirtschaft, Landesentwicklung und
Energie – EU-Bescheinigungsbehörde
Prinzregentenstraße 28 – 80538 München

Mr Pascal Boijmans, DG Regional and Urban Policy, Unit D2