

Brussels, 20 JAN 2014
CL/gS Ares (2014) 117610

Dear President ,

As you know, the European Parliament and the Council appoint the European Data Protection Supervisor by common accord. They make the appointment on the basis of a short list drawn up by the Commission following a public call for candidates.

Following the publication in July 2013 of a vacancy notice for the posts of European Data Protection Supervisor and Assistant Supervisor, the Commission has been working towards the establishment of a shortlist of candidates. Observers from the European Parliament and the Council were involved in the process. However, following a very thorough process, on 14 January 2014, the Commission felt obliged to conclude that none of the candidates should be shortlisted for either post. The Commission decided to propose that the European Parliament and Council should close the procedure and launch a new publication. Both institutions were informed of the Commission's deliberations by letter of the Commission's Secretary General of 20 January 2014.

While disappointing, this outcome is the unavoidable conclusion after the various stages of the selection procedure. This leads to the unfortunate situation that the five-year-terms of the current EDPS and his Assistant Supervisor come to an end without their successors being appointed.

In order to resolve this situation as quickly as possible I am writing to propose a way forward which I hope to be agreeable for all parties involved.

Last week I met with the current EDPS, Mr. Hustinx. Our meeting allowed me to clarify that the outcome of the selection process should in no way be understood as a negative judgement on the professional reputation of the candidates. I am pleased to inform you that Mr Hustinx is willing to continue in office until 16 October 2014. I hope that his Assistant Supervisor, Mr. Butarelli will be ready to do the same so that the EDPS as an institution will continue to function according to the high standards for which it is rightly recognised.

Mr Martin SCHULZ
President of the European Parliament
60, Rue Wiertz
1047 Brussels

In order to have the new team in place in the coming months both posts should be re-advertised through the publication of a new vacancy notice. Like in the current procedure, the Commission will consult again the Parliament and the Council on the draft notice. The Commission also intends to seek the views of Mr. Hustinx on the notice in view of his long experience.

In reaching agreement on a new vacancy notice I would like to have your views on the following:

- Currently, we had only one procedure for both functions, the EDPS and the Assistant Supervisor. Should we have two separate procedures, one for the EDPS and one for the Assistant Supervisor? This could enable us to distinguish better between candidates interested by one or the other position.*
- Whereas the criteria set out in the July 2013 vacancy notice as such are very comprehensive and fully appropriate, should a new notice highlight the need for candidates to be able to work at a high international level and to lead the EDPS in facing future challenges in an environment of rapid technical evolution with high political, economic and social sensitivity?*

In response to a question which I have heard several times over the last days, I would like to confirm that all candidates of the previous procedure could apply again if they fulfil the eligibility criteria. If any of them re-apply, they would not need to go through the assessment centre again but if they wished to do so, we would be happy to arrange for them to do so.

In order to complete a new selection process by mid October, both the European Parliament and Council would have to take a decision on the closure of the current procedure as quickly as possible so that a new vacancy notice can be published. Given that in the absence of shortlisted candidates, it is impossible to appoint any candidate, there is indeed no other realistic option. In response to some questions I have heard, I should underline that it is not possible to change the selection procedure during an on-going procedure or to decide to repeat certain stages of it. The procedure has been clearly described in the vacancy notice and constitutes therefore the legal framework which has to be respected.

Finally, I would like to say a few words about the procedure which led to the decision of 14 January.

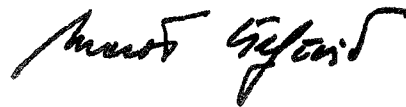
The Commission never mentions or confirms publicly the application of a candidate in a given selection procedure. The reason is to protect the procedure and to protect the candidates. In the current procedure, certain media mentioned names or persons in certain functions who had allegedly applied for the positions.

The Commission regrets this publicity since it is neither in the interest of the institutions nor in the interest of the real or alleged candidates.

The selection procedure did not judge the performance of a candidate in his or her previous or current function. It was based on the applications, pre-selection interviews, and an assessment centre run by an external and specialised recruitment firm who the Commission has been working with since 2010 with regard to senior appointments in a great variety of areas. The final interviews were conducted by a senior internal body which is called the Consultative Committee on Appointments composed of high ranking civil servants who have great experience in evaluating candidates for senior positions at EU level. Representatives of the European Parliament and the Council also participated and agreed to the unanimous conclusions of the panel. The final decision was taken by the College.

If you would like any further information on the procedure please do not hesitate to contact me. I look forward to hearing from you on the issues set out in this letter in the near future.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Antonio Guterres". The signature is written in a cursive, flowing style.