



ΕΒΡΟΠΕΪΣΚΙ ΠΑΡΛΑΜΕΝΤ ΠΑΡΛΑΜΕΝΤΟ ΕΥΡΟΠΕΟ ΕΥΡΟΠΣΚΪ ΠΑΡΛΑΜΕΝΤ ΕΥΡΟΠΑ-ΠΑΡΛΑΜΕΝΤΕΤ
ΕΥΡΟΠΆΙΣΧΕΣ ΠΑΡΛΑΜΕΝΤ ΕΥΡΟΟΡΑ ΠΑΡΛΑΜΕΝΤ ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
PARLEMENT EUROPEEN PARLAIMINT NA ĦEORPA PARLAMENTO EUROPEO EIROPAS PARLAMENTS
EUROPOS PARLAMANTAS EURÓPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU PARLAMENTUL EUROPEAN
EURÓPSKY PARLAMENT EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROOPARLAMENTET

Committee on Civil Liberties, Justice and Home Affairs
The Chairman

IPOL-COM-LIBED(2014)5108

Mr. Freddy Drexler
Jurisconsult
Legal Service
KAD 06A007
Luxembourg

302184 31.01.2014

Subject: Appointment of the European Data Protection Supervisor and the Assistant Supervisor. Regulation (EC) No 45/2001

Dear Mr Drexler,

I am addressing you about the procedure for the appointment of the European Data Protection Supervisor and the Assistant Supervisor (EDPS). The term of the Supervisor and the Assistant Supervisor ended last 17 January 2014.

Regulation (EC) No 45/2001, which sets out the regime applicable to the processing of personal data by the Union's Institutions and bodies, establishes the European Data Protection Supervisor (Art. 41) and the Assistant Supervisor (Art. 42(1)) who are competent to monitor and ensure compliance with the Regulation by EU Institutions, agencies and bodies.

As regards the appointment of the EDPS and the Assistant Supervisor, Article 42(1) or Regulation (EC) No 45/2001 provides that "the European Parliament and the Council shall appoint by common accord the European Data Protection Supervisor for a term of five years, on the basis of a list drawn up by the Commission following a public call for candidates".

Article 42(2) of Regulation (EC) No 45/2001 stipulates that the EDPS (and the Assistant Supervisor) shall be chosen from persons whose independence is beyond doubt and who are acknowledged as having the experience and skills required to perform the duties of European Data Protection Supervisor, for example because they belong or have belonged to the supervisory authorities referred to in Article 28 of Directive 95/46/EC.¹

The procedure for the appointment of the EDPS

In order to proceed with the appointment of the EDPS and the Assistant Supervisor for the term 2014-2019, the European Commission published on 31th July 2013 a vacancy notice². The vacancy notice sets out the eligibility criteria, the selection criteria and the procedure for the establishment of the short list by the Commission.

¹ These rules are also applicable to the Assistant Supervisor (Article 42(8) of Regulation 45/2001)

² OJ C 219, A/1- 31.7.2013

The Vice President Šefčovič, in his letter dated on 20 December 2013, informed the LIBE Committee that the Commission's Consultative Committee on Appointments (CCA) did not feel that any of the candidates displayed the necessary combination of vision with the ability to ensure effective implementation. For this reason the Commission decided on 14 January 2014 "not to establish a list of candidates under Article 42(1) of Regulation 45/2001 and to suggest to the Parliament and the Council to close the current selection procedure and to make a new publication".

On 14th January 2014, the Vice President Šefčovič met with the LIBE Committee Coordinators. The LIBE Coordinators decided to ask for an opinion of the Legal Service of the European Parliament on the following questions:

On 20th January 2014 the Commission, by letters of Vice-President Šefčovič and of the Secretary General of the Commission has formally notified the Parliament and the Council its decision of 14th January 2014.

Regarding the Commission's Decision of 14 January 2014

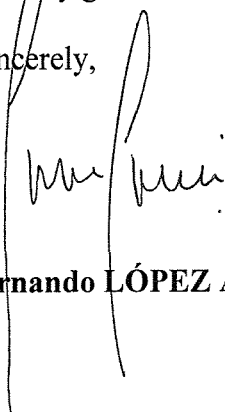
In its Decision of 14 January 2014, the Commission decided not to establish a short list and suggested the Parliament and the Council to consider closing the current selection procedure and to make a new publication.

1. *Could the Legal Service explain if it is for the Parliament and the Council to decide to close a procedure launched by the Commission?*
2. *The Commission has invited the Parliament and the Council to reflect on the publication of two different vacancy notices and to follow two separate procedures for each function. Does the Legal Service consider this suggestion being in line with Regulation 45/2001?*

I would be grateful if the Legal Service could give the LIBE Committee its opinion in this regard.

It is in the interest of the institutions to settle the current situation, therefore, I would kindly request the Legal Service to provide the answers as soon as possible. I would like to express in advance my gratitude for your cooperation and advice.

Yours sincerely,



Juan Fernando LÓPEZ AGUILAR