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GB/XK/mk D(2014)1151 **C2013-0958**  
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all correspondence

**Re: Opinion of the European Data Protection Supervisor on the notification received from the Committee of the Regions on the organisation of an internal competition under Article 29(3) of the Staff Regulations (Case 2013-0958)**

Dear Ms Kesteloot,

Thank you for the notification on an internal competition procedure under Article 29(3) of the Staff Regulations to be organised by the Committee of the Regions.

According to the notification made under Article 27(3) of Regulation 45/2001 ('the Regulation'), the purpose of the processing is to draw up reserve lists in order to fill vacant posts within the Secretariat-General of the Committee of the Regions.

That processing is similar to the recruitment procedures already notified to the EDPS<sup>1</sup>. The specific feature of the processing lies in the fact that it is an internal competition and that it is proposed to have certain of the candidates' abilities assessed by an external contractor, an 'assessment centre'. The Commission has concluded a contract with an external contractor with which the Committee of the Regions proposes to work when organising its internal competitions. According to the notification, the Committee of the Regions will only provide the assessment centre with the candidate's name and contact details. The assessment of candidates is not comparative, there is no scoring system and candidates will not be eliminated on the basis of the results. Its purpose is to provide the Committee of the Regions' internal selection board with additional information. The Committee of the Regions has provided the EDPS with the following documents:

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<sup>1</sup> Opinion of the EDPS of 16 June 2009 (Case 2008-0694).

- i) a draft ‘internal competition procedure under Article 29(3) of the Staff Regulations’ describing all the stages in the procedure, which is to be adopted by the Secretary-General / Appointing Authority of the Committee of the Regions;
- ii) a document attached to the notice of competition providing information on how to request a reassessment, the appeal procedures, how to complain to the European Ombudsman, equal opportunities, the fact that candidates may access documents directly relating to them (the ‘assessment centre’ report, individual assessment sheets) and how to request that access, and information on personal data protection (‘the information document’);
- iii) a copy of the contract concluded between the Commission and the assessment centre with which the Committee of the Regions proposes to work.

On 10 October 2008, the EDPS adopted the Guidelines concerning the processing operations in the field of staff recruitment by the EU institutions (‘the Guidelines’). According to the EDPS’s internal procedure, the notification has therefore been analysed in the light of those Guidelines. In his analysis, the EDPS has highlighted those practices which do not appear to conform with the Guidelines and has made appropriate recommendations to the Committee of the Regions regarding those matters.

### **1) Processing of special categories of data**

In view of the sensitive nature of data relating to disabilities, the EDPS recommends that persons handling candidates’ files and also persons responsible for any special arrangements that may be made for candidates should sign a confidentiality clause making them subject to an obligation of professional secrecy equivalent to that applicable to a health professional under Article 10(3) of the Regulation.

### **2) Right to information**

The EDPS notes that the information document is attached to the notice of competition and provides important information concerning personal data protection in accordance with Articles 11 and 12 of the Regulation.

However, the notification does not state how candidates will be informed of the ‘internal competition procedure under Article 29(3) of the Staff Regulations’. That document provides information about the legal basis, the various stages in the competition procedure and the various persons involved in assessing the candidates. This is important information which will help to guarantee fair and transparent data processing for the candidates.

The EDPS therefore suggests that, after it has been adopted by the Secretary-General / Authorising Authority of the Committee of the Regions, the document describing the procedure should also be attached to the notice of competition or otherwise brought to the candidates’ attention.

### **3) Security**

The EDPS notes that the Committee of the Regions has adopted security measures relating to access to and storage of personal data in the light of Article 22 of the Regulation.

Nevertheless, the EDPS wishes to emphasise the importance of practical arrangements to ensure confidentiality when information and assessment reports are exchanged between the Committee

of the Regions' selection board and the assessment centre and also between other potential recipients.

For that reason, the EDPS recommends that the Committee of the Regions should adopt rules to ensure that information about candidates is always sent in sealed envelopes bearing the words 'confidential' or 'to be opened by the addressee only'.

In the light of the foregoing, the proposed processing operation does not appear to involve infringements of the provisions of the Regulation, provided that the above recommendations are taken into account. The EDPS requests the Committee of the Regions to send him the documents showing that his recommendations have been implemented before launching the first internal competition procedure.

Yours sincerely,

**(signed)**

Giovanni Buttarelli

Cc: Mr Spac Ratislav, Data Protection Officer