

## Letter opening cases 488/2018/KR and 514/2018/KR on the European Commission's appointment of a new Secretary-General

Correspondence - 08/05/2018

**Case 514/2018/KR - Opened on 08/05/2018 - Recommendation on 31/08/2018 - Decision on 11/02/2019 - Institutions concerned** European Commission ( Maladministration found ) | European Commission ( Recommendation rejected ) |

Mr Jean-Claude Juncker

President of the European Commission

Strasbourg, 08/05/2018

Complaint 488/2018/KR and 514/2018/KR

**Subject:** Appointment of the new Secretary-General

Dear Mr President,

I have received two complaints from delegations of the European Parliament [1] alleging that the appointment of the new Secretary-General of the Commission did not comply with the EU Staff Regulations and with principles of good administration. I have opened a joint inquiry into these complaints.

The Parliament has already conducted an extensive examination of the matter [2] , with two detailed questionnaires and debates both in committee and plenary, culminating in a comprehensive resolution of 18 April 2018.

In order not to duplicate the work already carried out by Parliament, I will consider, for the purposes of my inquiry, that the answers provided by the Commission to Parliament are, unless you inform me otherwise, the Commission's final position on those matters. I also underline that I will examine the issues that arise in my inquiry under the independent mandate given to the Ombudsman through the EU Treaties. My inquiry will include an inspection of all necessary documents held by the Commission.



In that context, I would be grateful if you could provide written replies to the following questions before 15 June 2018 :

1. The Parliament resolution states that the appointment " *could be viewed as a coup-like action which stretched and possibly even overstretched the limits of the law* ". How has the Commission reflected on this characterisation of the manner in which the appointment was made and what, if any, lessons has it learned from the affair overall?
2. The Commission did not answer several of Parliament's questions on how this appointment may have damaged the trust in the EU as a whole. Would the Commission now, in hindsight, like to reflect on and set out its view on whether it has damaged trust in the EU? Does it consider that the widespread criticism of the manner in which the appointment was made was justified?
3. While it is important that senior Commission management positions are not the object of negotiations between Member States or political parties, but rather decisions for the College of Commissioners, how will the Commission in future ensure these decisions are based on the principles of transparency, equality, qualifications and merit?
4. Does the Commission agree with the statement in the Parliament resolution that " *appointments to high-level posts such as that of Secretary-General should be made independently of other appointments, thereby avoiding any suspicion of non-transparent package deals or trade-offs based on privileged information* "? Can the Commission comment on this statement?
5. The Juncker Commission is a political executive, deriving its legitimacy from the European parliament elections, and is supported by an independent civil service. While this is comparable to how many EU Member States governments are structured, can the Commission comment on how it manages the working relationship between the political (that is, the Commissioners and their cabinets) and civil service sides at senior levels?
6. Citizens would expect that the EU civil service gives independent advice, while being necessarily aware of the political environment in which it works. How does the Commission ensure that, when somebody switches from a senior political role to senior management of the independent civil service, that citizens can be reassured about the impartiality of the permanent civil service?
7. The Commission has acknowledged failures in communications in relation to this appointment. What actions does the Commission intend to take in the future in order to improve its handling of valid and legitimate questions from the media, mindful that such exchanges are frequently the only way that citizens get answers to their concerns.

Please note that I am likely to send your reply to the complainants for comments. I would therefore be grateful if the Commission could submit a translation of its reply in both Dutch and French, which are the languages of the complaints, before 29 June 2018.



## Inspection of documents

In addition, I have decided that it is necessary under Article 3.2 of the Ombudsman Statute to inspect the following documents held by the Commission:

All documents , whether in electronic or paper format, including correspondence, notes, memos, emails, and all legal advice, from 1 September 2017 until 18 April 2018, relating to the appointment of the new Secretary-General. This should include documents sent from Commissioners to their cabinets, documents within and between cabinets, as well as documents between Commissioners/cabinets and the Commission services. This should include all documents relating to the retirement of the previous Secretary- General, the appointment of the new Deputy Secretary-General and subsequently new Secretary-General, and the minutes of the meeting of the Heads of Cabinet of 19 February 2018.

I would be grateful if your services could contact Mr Fergal O' Regan, Head of Unit (02 28 43548 / [fergal.oregan@ombudsman.europa.eu](mailto:fergal.oregan@ombudsman.europa.eu) [Link]) to agree the arrangements for the inspection to take place before 8 June 2018 . Please note that subsequent inspections may be requested as needed.

Information or documents that your institution considers to be confidential will not be disclosed to the complainant or any other person without the prior agreement of the Commission. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended. [3]

Thank you for your cooperation on this important matter.

Yours sincerely,

Emily O'Reilly

Enclosures: The complaints

[1] Dutch D'66 delegation (ALDE group) and French Socialists' delegation (S&D group)

[2] See subject file with all the documentation on website of the Budget Control Committee [//www.europarl.europa.eu/committees/en/cont/subject-files.html?id=20180326CDT02181](http://www.europarl.europa.eu/committees/en/cont/subject-files.html?id=20180326CDT02181) [Link]

[3] In accordance with Articles 4.8 and 9.4 of the European Ombudsman's Implementing Provisions: <https://www.ombudsman.europa.eu/en/resources/provisions.faces> [Link]