

From: [REDACTED]
To: [REDACTED]
Subject: RE: First meeting of the Task Force "new EDPS Rules of Procedure" tomorrow at h15.00 - minutes of the EMB of 16 January
Date: 05 February 2019 17:54:33
Attachments: [TABLE from Old RoP to nRoP version of 5.2.2019 with attributions.docx](#)

Dear [REDACTED]

Dear Colleagues,

This is just to send you the **updated Table with all attributions** and a **few lines** to keep track of discussion.

As you can see, **all issues are now attributed** (same doc attached):

<https://saas.fabasoft.com/edps/mx/COO.6515.100.2.356767>

→ DL for your input is **22 February**. You can insert your drafting suggestions **directly in the Table**. I think you all have, except Katinka and Romain, access to the file in CMS with editing rights, otherwise please tell me.

The **second meeting of the TF will take place in the week of 11-15 March**.

I will send you the outlook calendar invitation.

(I'll do a short debriefing on this first meeting for the [REDACTED] and the [REDACTED] if fine with [REDACTED])

I remain at your disposal.

A plus and grazie!

[REDACTED]

From: [REDACTED]
Sent: 04 February 2019 11:26
To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Subject: First meeting of the Task Force 'new EDPS Rules of Procedure' tomorrow at h15.00 - minutes of the EMB of 16 January

Dear Members of the nRoP Task Force,

irrespectively of whether you are volunteering for it or just designated as such , -)

Good morning,

We are close to this 'historical' **first meeting for the new RoP**: this is already tomorrow afternoon.

So, let's 'start the engines' :-)

As promised, I am now sending you the **debriefing of the Management Board**, in its extended format MB+Head of Unit/Sectors, where this project has been discussed last month. The minutes have been prepared by [REDACTED] (merci [REDACTED] and approved by Giovanni and provide guidance on the concept and execution of the project.

<< File: EMB 16.1.19 Brainstorming meeting on the EDPS new Rules of Procedure.docx >>

Further info will follow soon.

Thank you again in advance for bearing with me on this.

A +!

-----Original Appointment-----

From: [REDACTED]

Sent: 17 January 2019 12:56

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: First meeting of the Task Force 'new EDPS Rules of Procedure'

When: 05 February 2019 15:00-17:00 (UTC+01:00)
Brussels, Copenhagen, Madrid, Paris.

Where: Meeting Room 3rd Floor

Dear colleagues,

This is the invitation to the **first meeting of the Task Force 'new EDPS Rules of Procedure'**.

Please block this timeslot in your calendar: I hope it works for everyone (not easy to find a timeslot that suits everyone). Otherwise, exceptionally please ask your line Manager for an alternate delegate for this meeting.

Agenda of the meeting:

- **Debriefing** on yesterday's Extended EDPS Management Board meeting on the new Rules of Procedure (the minutes relating to this point will be circulated ahead of the meeting).
- First 'tour de table' to collect first **views on the needs of each Team** that can and should be addressed in the RoP.
- As you can see from the Outline and Roadmap of the Project (see hereunder*), the 'rules' have been 'deconstructed' according to **issues, numbered from 1.1 to 3.10** (of course we can rearrange the issues, but all of them should be covered at the end of the day):

each participant will agree on **taking care of one or more issues according to the 'core business' of her/his Unit** and will deliver a **first drafting proposal concerning the issue opted**

for within a deadline to be established at this first meeting.

- We fix **the dates and times for the next meetings** (at least the ones of February and March, but we try to agree on a fixed day, for instance: Wed morning of the first week of the month).

Our Director [REDACTED] will open this first meeting.

I thank you [REDACTED] the managers and you all for your guidance and help on this 'must-do' exercise.

It is nonetheless, let me further highlight this, an opportunity to 'consolidate' in the RoP something you would like. *And it could also be .. fun (let's be optimistic)!*

See you soon,

Kind regards,

[REDACTED]

*Draft 'taxonomy':

In order to perform the work of the RoP, for the very first update-redrafting we deconstruct the rules according to three **clusters**, divided into **sub-clusters** *to be assigned* to the participants of the Task Force at the first meeting:

1. Rules concerning the Organization:

1.1. **Principles for the Organization**

(Independence, good governance and good administrative behaviour);

1.2. The **Organization 'as such'** (Role of the Supervisor; Secretariat as formed by Units and Sectors; Director and Appointing Authority; Management Board and MBM; DM; other rules);

1.3. **Delegation of powers** (Delegations, Deputising) and Authentication of decisions;

1.4. **Accountability of the Organization:** (1.4.1. Planning: AMP; Annual Report; 1.4.2. Information to the public; Active disclosure of documents;

Publications in the Official Journal; 1.4.3. others).

2. Tasks and Procedures:

2.1. Principles for the performance of tasks:
(guiding principles; principle of '*Policy-based procedures*');

→ *The current three main clusters of procedures:*

2.2.1. Supervision (Monitoring compliance; Enforcement; Prior checks [to be deleted]; administrative consultations; [to be added] Fines; Complaints; Inspections; Visits; Prior consultation following DPIA; [to be added] data breach notifications by EUI);

2.2.2. Legislative and Policy Consultation
(Scope; Informal consultation; Legislative opinions and formal comments; Annual priorities and inventory; Follow up);

2.2.3. Cooperation with Data Protection Authorities (Cooperation with Data Protection Authorities, Article 29 Working Party [now EDPB]; '*Coordinated supervision*'; International Cooperation).

→ *Specific procedures:*

2.3.1. Court proceedings (Actions against institutions; Actions against EDPS decisions; Interventions);

2.3.2. Monitoring technology;

2.3.3. (Coordinated) supervision of large scale IT systems.

3. Horizontal supporting services and legal procedures:

3.1.1 *Security*; **3.1.2.** IT Steering Committee;

3.2. *Quality Management* (under Accountability: 1.4?)

3.3. Data Protection Officer [to be turned into stand-alone, dedicated Section on **EDPS (Internal) Data Protection Accountability**, under Accountability and Leading by Example, 1.5?]

3.4. *Documentation (and case management systems)*

3.5. **Public access to documents** (further detailing applicability of Regulation (EC) 1049/2001)

3.6. Languages and working languages

3.7. '*Budget and Administration*' (authorising officer and accounting officer; other rules?)

3.8. *Staff*

3.9. (HR) administrative cooperation with other institutions

3.10. *Staff Committee*

TABLE: FROM THE OLD ROP TO THE NEW ROP (V.5 FEB WITH ATTRIBUTIONS)

Issue (Person in charge)	Provisions	New Provision (basic recast)	Policy doc (status: ready, to be drafted, to be updated)
<p>Preamble (policy + legal issue)</p> <p>1.1</p> <p>To be done by [REDACTED] by 22Feb (same DL for everyone)</p>	<p>THE EUROPEAN DATA PROTECTION SUPERVISOR, <i>Having regard to</i> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data (1), and in particular Article 46(k) thereof,</p> <p>Whereas:</p> <p>(1) Article 8 of the Charter of Fundamental Rights and Article 16 of the Treaty on the Functioning of the European Union provide that compliance with the rules relating to the protection of individuals with regard to the processing of personal data concerning them by Union institutions, bodies, offices and agencies shall be subject to control by an independent authority.</p> <p>(2) Regulation (EC) No 45/2001 provides for the establishment of an independent authority, referred to as the European Data Protection Supervisor, responsible for ensuring that the fundamental rights and freedoms of natural persons, and in particular their right to privacy, with respect to the processing of personal data, are respected by the Union institutions and bodies.</p> <p>(3) Regulation (EC) No 45/2001 also provides for the duties and powers of the European Data Protection Supervisor, as well as for the appointment of the European Data Protection Supervisor and an Assistant Supervisor.</p> <p>(4) Regulation (EC) No 45/2001 further provides that the European Data Protection Supervisor shall be assisted by a Secretariat and lays down a number of provisions concerning staff and budgetary matters.</p> <p>(5) Decision No 1247/2002/EC of the European Parliament, of the Council and of the Commission of 1 July 2002 on the regulations and general conditions governing the performance of the</p>		<p>Always add any relevant policy doc or other relevant doc concerning the issue</p>

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	European Data Protection Supervisor's duties (2), lays down a number of additional provisions on this subject. (6) Other provisions of Union law provide for additional duties and powers for the European Data Protection Supervisor,		
1.1 legal 	<i>Article 1</i> Execution of duties and powers The European Data Protection Supervisor shall execute the duties and powers imposed by Regulation (EC) No 45/2001 and other provisions of Union law.	Option: delete	
1.1 legal 	<i>Article 2</i> Definitions In these Rules: (a) 'the Regulation' means Regulation (EC) No 45/2001; (b) 'the institution' means a Union institution, body, office or agency subject to Regulation (EC) No 45/2001; (c) 'the EDPS' means the European Data Protection Supervisor as an institution; (d) 'the Supervisor' means, unless otherwise specified, the persons holding the office of European Data Protection Supervisor and Assistant Supervisor; (e) 'administrative measure' means a decision or any other act of the Union administration of general application relating to the processing of personal data carried out by the institution.		
1.1 Principles * linked to 1.1 at page 7 	<i>Article 3</i> Independence, good governance and good administrative behaviour 1. In accordance with Article 44 of the Regulation, the Supervisor shall act in complete independence in the performance of his or her duties. 2. The Supervisor shall ensure the proper functioning of the services available for the performance of the tasks referred to in Article 1, taking into account the principles of good governance, good administrative behaviour and good management.		Policy: - State of play:
1.2 Organization 	<i>Article 4</i> Roles of Supervisor and Assistant Supervisor 1. The Supervisor and the Assistant Supervisor shall be, as members of the institution, responsible for the adoption of strategies, policies and decisions, and shall work together in the performance of the tasks referred to in Article 1. The		

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	<p>Assistant Supervisor shall carry out those tasks, in case of the absence or inability to act of the Supervisor and vice versa.</p> <p>2. The Supervisor and the Assistant Supervisor shall aim to reach a consensus on general strategies and policies and other important matters, including those related to the Secretariat. The Supervisor shall decide where a consensus cannot be reached and the matter is urgent.</p> <p>3. The Supervisor, acting in close cooperation with the Assistant Supervisor, shall determine a division of work between them, including which of them is to have prime responsibility for the preparation, adoption and follow up of decisions and the delegation of tasks to the Assistant Supervisor, where appropriate.</p>		
<p>1.2 Organizational</p> <p>■</p>	<p><i>Article 5</i> Secretariat</p> <p>1. In accordance with Article 43(4) of the Regulation, the Supervisor shall be assisted by a Secretariat, the tasks and working methods of which shall be defined by the Supervisor.</p> <p>2. The Supervisor may delegate certain tasks to individual members of staff, with the possibility of replacement by other staff members.</p> <p>3. The Supervisor shall establish a number of Units and Sectors forming the Secretariat to assist in the preparation and performance of the tasks referred to in Article 1. Each Unit or Sector shall be headed by a Head of Unit or Sector.</p>	Add reference to EDPB Secretariat	Policy:
<p>1.2 Organizational</p> <p>■</p>	<p><i>Article 6</i> Director</p> <p>1. The Secretariat shall be headed by a Director, who shall take all measures necessary to ensure the proper functioning of the Secretariat and the efficient use of resources, including replacement of the Director in case of absence or inability to act.</p> <p>2. The Director shall be responsible for:</p> <p>(a) the preparation and implementation of strategies and policies;</p> <p>(b) contributing to their evaluation and development;</p> <p>(c) the coordination and planning of activities, the measurement of performance and the representation of the institution in relations with other institutions and bodies, where appropriate.</p>		

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1.2 Organizational 	<i>Article 7</i> Management Board 1. The Management Board shall comprise the Supervisor, the Assistant Supervisor and the Director. The Board shall meet at regular intervals, normally once a week, to discuss general strategies and policies and other important matters and contribute to a good coordination of relevant activities. 2. The Director shall ensure the proper functioning of the secretariat of the Management Board.	Add reference to EMB	
1.2 Organizational 	<i>Article 49</i> IT Steering Committee A Steering Committee on Information Technologies shall be established to advise the Management Board on the implications of information technology for the security and internal development of the EDPS.	link to Article 38, Monitoring Technology, under 2.2.5	
1.2 Organizational  informing 	<i>Article 8</i> Director's Meeting The Director shall meet at regular intervals, normally once a week, with the Heads of Unit and Sector to ensure coordination and planning of activities and the preparation and implementation of strategies and policies. The Director shall ensure the proper functioning of the secretariat of the Director's Meeting.		
1.2 Organizational 	<i>Article 9</i> Appointing authority 1. The Director shall exercise the powers vested in the appointing authority within the meaning of Article 2 of the Staff Regulations of officials of the European Union and the powers vested in the authority authorised to conclude contracts of employment within the meaning of Article 6 of the Conditions of Employment of other servants of the European Union and any other related powers resulting from other administrative decisions both internal to the EDPS or of an inter-institutional nature, insofar as the decision of the Supervisor on the exercise of the powers vested in the appointing authority and in the authority authorised to conclude contracts of employment does not provide otherwise. 2. The Director may delegate the exercise of the powers referred to in paragraph 1 to the official responsible for the management of human resources.		

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1.2 Organizational 	<i>Article 10</i> Authorising officer and accounting officer 1. The powers of authorising officer shall be exercised by the Supervisor. The powers of authorising officer by delegation and authorising officer by sub-delegation shall be exercised by those appointed in the charter of tasks and responsibilities of authorising officers by delegation and the charter of tasks and responsibilities of authorising officers by sub-delegation. 2. The accounting officer of the European Commission shall be the accounting officer of the EDPS.		
1.3 Delegation of powers 	<i>Article 11</i> Delegations 1. The Supervisor may <i>delegate</i> to the Director the power to adopt and sign the definitive text of any decision or opinion, the substance of which has already been determined. 2. Where powers have been delegated to the Director pursuant to paragraph 1, the Director may <i>sub-delegate</i> power to exercise those powers in his or her absence to the Head of Unit or Sector concerned. 3. Paragraphs 1 and 2 shall be without prejudice to the rules concerning delegation in respect of the powers conferred on the appointing authority or of those concerning financial matters as provided for in Articles 9 and 10.	Reference to a 'Delegation Charter'?	
1.3 Delegation of powers 	<i>Article 12</i> Deputising 1. In the absence of the Supervisor and the Assistant Supervisor or where they are prevented from exercising their functions, the Director shall where appropriate act as a replacement for matters requiring urgent attention during such absence or inability to act. 2. Where the Director is prevented from exercising his or her functions or the post is vacant and no official has been designated by the Supervisor, the Director's functions shall be exercised by the Head of Unit or Sector present with the highest grade or, in the event of equal grade, by the Head of Unit or Sector with the greatest seniority within the grade or, in the event of equal seniority, by the eldest. 3. If there is no Head of Unit or Sector present and no official has been designated, the official present within		

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	<p>that Unit or Sector with the highest grade or, in the event of equal grade, the official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.</p> <p>4. Where any other hierarchical superior is prevented from exercising his or her duties, or where the post is vacant, the Director shall designate an official in agreement with the Supervisor. If no replacement has been designated, the official present in the Unit or Sector concerned with the highest grade, or in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.</p> <p>5. Paragraphs 1 to 4 shall be without prejudice to the rules concerning delegation in respect of the powers conferred on the appointing authority or of those concerning financial matters as provided for in Articles 9 and 10.</p>		
<p>1.4.1 Planning and Accountability</p> <p>■ (and ■</p>	<p>Annual Management Plan</p> <p>1. In accordance with the principles of good administration and good financial management, the EDPS shall establish each year an Annual Management Plan. That plan shall translate the long term strategy of the EDPS into general and specific objectives. Performance indicators and targets shall be defined and measured twice a year to monitor and track achievements.</p> <p>2. A risk analysis of EDPS planned activities shall be incorporated in the Annual Management Plan, which shall include identified risks and risk mitigation planning.</p>		
<p>1.4.1 Planning and Accountability</p> <p>■ (and ■</p>	<p><i>Article 14</i> Annual Report</p> <p>1. In accordance with Article 48 of the Regulation, the EDPS shall submit an annual activities report ('Annual Report') to the European Parliament, the Council and the Commission and forward it to the other institutions.</p> <p>2. The Annual Report shall be submitted and published on the EDPS website no later than 1 July of the following year.</p> <p>3. The EDPS shall consider the comments which are submitted by the other institutions referred to in paragraph 1 under Article 48(2) of the Regulation with a view to subsequent possible examination of the report in the European Parliament.</p>		

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<p>1.1 Principles* linked to 1.1 at page 2</p> <p>■■■■</p>	<p><i>Article 15</i> Guiding principles and core values 1. The EDPS shall act in the public interest as an expert, independent, reliable and authoritative body in the field of data protection, at the level of the Union. The interventions of the EDPS shall be based on impartiality, integrity, transparency and pragmatism. 2. The EDPS shall engage constructively with stakeholders in order to ensure a fair balance between data protection and privacy and other interests and policies. 3. Supervision of the institutions shall be based on the principle that accountability for compliance lies primarily with the controllers themselves.</p>		Policy doc.:
<p>2.1 Principle of ‘policy- based action’ *linked to 1.1 Principles</p> <p>■■■■</p>	<p><i>Article 16</i> Policy on activities The EDPS shall adopt policy papers in order to set out the main elements of EDPS policy concerning specific activities, where this is relevant for giving guidance on the positioning of the EDPS in relation to a specific activity. Policy papers shall be regularly updated.</p>	Option: delete	
<p>2.2.1 Legislative and Policy Consultati on</p> <p>■■■■</p>	<p>Legislative and policy consultation <i>Article 26</i> Scope of consultation 1. In accordance with Article 41 and 28(2) of the Regulation, the EDPS shall advise on legislative proposals based on the Treaties and on other acts and documents, such as: (a) decisions under the common foreign and security policy; (b) implementing and delegated acts; (c) documents relating to agreements with third countries and international organisations; (d) legislative initiatives of the Member States under the Treaties; (e) initiatives for enhanced cooperation; (f) non-binding acts such as recommendations and communications relating to the protection of individuals’ rights and freedoms with regard to the processing of personal data. The EDPS shall provide such advice following a consultation of the Commission under Article 28(2) of the Regulation, following any other request of an institution, or on own initiative. 2. The EDPS shall be available for consultation by the institutions involved during all stages of the legislative process.</p>		Policy doc.:

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2.2.1 Legislative and Policy Consultation 	<i>Article 27</i> Informal consultation 1. As agreed with the Commission, the EDPS should be consulted before the College of Commissioners takes a final decision to adopt a measure or a legislative proposal or policy document. In response to such consultation, the EDPS shall provide the responsible service of the Commission with informal comments on the draft of a proposal or related document. 2. The informal comments provided pursuant to paragraph 1 shall respect the confidentiality of the internal decision-making process of the Commission, subject to applicable rules under the Treaties and secondary legislation. The EDPS shall endeavour to respect the deadlines proposed by the Commission services, so far as is reasonable and practicable.		
2.2.1 Legislative and Policy Consultation 	<i>Article 28</i> Legislative opinions and formal comments 1. The advice of the EDPS on a legislative proposal or related document may take the form of an opinion, formal comments or any other instrument deemed appropriate. 2. An opinion of the EDPS shall analyse the data protection aspects of a proposal or related document. In principle, it shall be issued within three months of the adoption of the proposal or related document. 3. A summary of the opinion shall be published in the <i>Official Journal of the European Union</i> (C Series), while the full version shall be published on the EDPS website. 4. Formal comments of the EDPS shall focus on specific aspects of a proposal or related document. In principle, they shall be issued within two months after the adoption of the document. They shall be published on the EDPS website.		
2.2.1 Legislative and Policy Consultation *link to AMP? 	<i>Article 29</i> Annual priorities and inventory 1. The EDPS shall publish annual priorities on the EDPS website. 2. The EDPS shall publish on the website three times a year an inventory with proposals for legislation and related documents in respect of which it intends to provide advice. The inventory shall		

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	<p>classify those documents according to their priority.</p> <p>3. The inventory shall be based on the Annual Work Programme of the Commission and its updated annexes, and any other pertinent information available.</p>		
<p>2.2.1 Legislative and Policy Consultation</p> <p>■</p>	<p><i>Article 30</i> Follow up of legislative opinions and formal comments</p> <p>1. The EDPS shall actively follow the developments in the European Parliament, the Council and the Commission after providing advice.</p> <p>2. The Supervisor shall be available to orally present and discuss the EDPS' advice in a meeting with the legislator or to provide any other requested contribution.</p> <p>3. Where substantial changes are made to a legislative measure under discussion, the EDPS may consider submitting a further opinion, further comments or any other instrument deemed appropriate.</p>	To be kept to accommodate suggestion by Audit	
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 17</i> Monitoring compliance with the Regulation</p> <p>The EDPS shall carry out regular monitoring exercises in order to ensure an adequate overview of data protection compliance within institutions. Those exercises may be general or more targeted, based on the knowledge and evidence gathered in the performance of supervisory activities.</p>		Policy doc.
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 18</i> Enforcement</p> <p>The EDPS shall <i>enforce</i> data protection obligations using the powers granted in Article 47 of the Regulation. Those powers shall be used to their fullest extent in cases of serious, deliberate or repeated instances of non-compliance.</p>		
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 19</i> Request for a prior check</p> <p>1. In accordance with Article 27 of the Regulation, processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes shall be subject to prior checking by the</p>	To be deleted	

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	<p>CAMEDPS upon notification from the Data Protection Officer of an institution.</p> <p>2. In case of doubt as to the need for prior checking, the EDPS shall determine upon the request of the Data Protection Officer whether or not the processing operation presents specific risks and, if so, invite the Data Protection Officer to notify the case accordingly.</p> <p>3. If the processing operation does not present specific risks, the EDPS may nevertheless address certain recommendations to the institution.</p> <p>4. Notifications for prior checking shall be sent to the EDPS secretariat by email using the standard EDPS form.</p> <p>5. Any relevant additional information relating to the notified processing operation may be annexed to the notification form.</p>		
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 20</i></p> <p>Prior check opinions</p> <p>1. The EDPS shall adopt an opinion in which the relevant grounds and conclusions of the prior check are presented.</p> <p>2. If the notified processing involves a possible breach of a provision of the Regulation, the EDPS shall where appropriate make proposals to avoid such breach.</p>	<i>To be deleted</i>	
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 21</i></p> <p>Deadlines and suspensions for adopting the prior check opinion</p> <p>1. In accordance with Article 27(4) of the Regulation, the EDPS shall deliver the prior check opinion within two months following receipt of the notification. The EDPS may request any further information considered necessary. The period of two months may be suspended until the EDPS has obtained the information that has been requested. When the complexity of the matter so requires, the two months period may be extended once for a further two months.</p> <p>2. If the opinion has not been delivered by the end of the period of two months, or any extension thereof, it shall be deemed to be favourable.</p> <p>3. The starting date for calculating the deadline shall be the day following the date on which the notification form was received.</p> <p>4. If the final date is a public holiday or another day on which the EDPS'</p>	<i>To be deleted</i>	

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	services are closed, the next working day shall be considered as the final date for delivering the opinion.		
2.2.2 Supervision ■	<p><i>Article 22</i></p> <p>Deadlines and suspensions</p> <p>1. Prior to the adoption of an opinion, the EDPS shall send a draft of the opinion to the institution for feedback on practical aspects and factual inaccuracies. The institution shall submit its feedback within 10 days of receipt of the draft. This period may be extended upon reasoned request from the controller. The request for feedback shall suspend the period referred to in Article 21(1). If no feedback is received by the deadline, the EDPS shall proceed with the adoption of the opinion.</p> <p>2. The EDPS shall give the institution three months from the date of adoption of the opinion to provide information on implementation of the recommendations made in the opinion. The information shall be subject to follow-up by the EDPS.</p>	<i>To be deleted</i>	
2.2.2 Supervision ■	<p><i>Article 23</i></p> <p>Prior check register</p> <p>1. In accordance with Article 27(5) of the Regulation, the EDPS shall keep a register of all processing operations that have been notified pursuant to Article 27 of the Regulation.</p> <p>2. The register shall exclude any reference to security measures. It shall contain a link to the EDPS opinion and information on the deadline for the provision of information by the institution pursuant to Article 22(2). The register shall be available on the EDPS website.</p>	<i>To be deleted</i>	
2.2.2 Supervision ■	<p><i>Article 24</i></p> <p>Administrative consultation</p> <p>1. In accordance with Article 28(1) of the Regulation, the EDPS shall be informed by the institutions when they draw up administrative measures which relate to the processing of personal data.</p> <p>2. In accordance with Article 46(d) of the Regulation, the EDPS shall advise institutions, in response to a consultation, on all matters concerning the processing of personal data, in particular before they draw up internal rules relating to the protection of fundamental rights and freedoms with regard to the processing of personal data.</p>		

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	3. In principle, the EDPS shall only take into consideration consultations which have been submitted for consultation to the Data Protection Officer of the institution concerned first.		
2.2.2 Supervision ■	<p><i>Article 25</i></p> <p>Opinions</p> <p>1. The EDPS shall in principle deliver an opinion within two months following receipt of the consultation. The EDPS may request any further information considered necessary. The period of two months may be suspended until the EDPS has obtained the information that has been requested.</p> <p>2. The EDPS shall give the institution three months from the date of adoption of the opinion to provide information on implementation of the recommendations made in the opinion. The information shall be subject to follow-up by the EDPS.</p>		
2.2.2 Supervision ■	<p><i>Article 37</i></p> <p>Visits</p> <p>1. Visits shall be carried out by the EDPS with the purpose of engaging commitment from senior management of an institution to fostering compliance with the Regulation.</p> <p>2. The launch of a visit shall in principle be based on a lack of commitment to comply with the Regulation, a lack of communication or to raise awareness.</p> <p>3. Where appropriate, a visit shall be concluded with an agreement on a schedule ('roadmap') committing the management of the institution to respect specific obligations under the Regulation within a set deadline. The agreed schedule shall be subject to follow-up by the EDPS.</p>		
2.2.2 Supervision ■	<p><i>Article 36</i></p> <p>Inspections</p> <p>1. The EDPS shall decide to carry out an inspection, whenever on the spot verification is considered necessary for the performance of supervisory tasks or for compliance with a legal obligation.</p> <p>2. The performance of an inspection shall be announced in writing to the institution concerned four weeks prior to the planned inspection date. The communication shall describe the purpose and scope of the inspection, establish the date of the inspection and set a deadline for the institution to request a revision of the date and to</p>	Add reference to Inspection Plan?	

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	<p>provide the EDPS with any requested information.</p> <p>3. The EDPS shall then issue a decision on an inspection, establishing the purpose, scope, date(s) and time and place(s) of the inspection and setting forth the legal basis for the inspection activities. The decision shall be accompanied by the mandates for any members of staff participating in the inspection.</p> <p>4. The members of staff performing an inspection shall collect any documentary evidence in a selective and proportionate manner. All documentary evidence shall be appropriately secured.</p> <p>5. Interviews and information obtained during an inspection and the procedure followed shall be recorded in minutes sent to the institution for comments. Should comments not be received within a set period, the minutes shall be deemed to have been approved. A list of evidence collected during the inspection shall be annexed to the minutes.</p> <p>6. The EDPS shall set forth in an inspection report the findings made during an inspection. The report shall include any actions to be undertaken by the institution inspected and shall be subject to follow-up by the EDPS.</p>		
2.2.2 Supervision 	<i>Article 42</i> Cooperation with Data Protection Officers <p>1. The EDPS shall cooperate with Data Protection Officers, both on a bilateral basis and by participating in the meetings organised by the network of Data Protection Officers.</p> <p>2. The EDPS shall provide support and guidance to Data Protection Officers, where necessary for the performance of their duties.</p>	Add reference to EDPS DPO meetings	
2.2.2 Supervision 	<i>Article 43</i> Register of appointed Data Protection Officers <p>In accordance with Article 24(5) of the Regulation, the EDPS shall keep a register of the appointments of Data Protection Officers notified to the EDPS. The register shall include, in particular, information on the duration of the mandate of each Data Protection Officer.</p>		

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<p>2.2.2 Supervision</p> <p>■</p>	<p><u>Complaints</u> <i>Article 31</i> Complaints 1. In accordance with Article 46(a) of the Regulation, the EDPS shall hear complaints and investigate them to the extent appropriate, and shall inform the data subject of the outcome within a reasonable period. 2. Complaints submitted to the EDPS shall not affect time- limits for appeals in parallel administrative or judicial proceedings.</p>	<p>On complaints (but also on consultations..), check compatibility with provisions Europol, Eurojust, EPPO Regulation..</p>	
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 32</i> Lodging a complaint 1. A complaint shall identify the person making the complaint. 2. A complaint shall be submitted in writing in any official language of the Union and provide all information necessary to understand its subject matter. 3. A complaint shall in principle be lodged within two years of the date on which the complainant had knowledge of the facts on which it is based. 4. If a complaint relating to the same facts has been lodged with the European Ombudsman, the EDPS shall examine its admissibility in the light of the provisions of the Memorandum of Understanding concluded between the EDPS and the European Ombudsman.</p>		
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 33</i> Handling of complaints 1. The EDPS shall decide on the most appropriate form and means to handle a complaint taking into account: (a) the nature and gravity of the alleged breach of data protection rules; (b) the importance of the prejudice that one or more data subjects have or may have suffered as result of the breach; (c) the potential overall importance of the case, also in relation to the other public and/or private interests involved; (d) the likelihood of establishing that the breach has occurred; (e) the exact date when events happened, any conduct which is no longer yielding effects, the removal of those effects or an appropriate guarantee of such a removal. 2. EDPS actions may consist, in particular of written requests to provide information, interviews with relevant persons, on the spot inspections or</p>		

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	<p>forensic examination of the relevant devices.</p> <p>3. The EDPS shall disclose the content of a complaint and the identity of the complainant only to the extent necessary for the proper conduct of the inquiry. During and after the inquiry, no documents related to the complaint, including the final decision, shall be disclosed by the EDPS to third parties, unless the persons concerned consent to such disclosure or if the EDPS is under a legal obligation to do so.</p> <p>4. Information about the complaint shall be published by the EDPS only in a form which does not allow the complainant or other data subjects involved to be identified.</p>		
<p>2.2.2 Supervision</p> <p>■</p>	<p><i>Article 34</i></p> <p>Outcome of complaints</p> <p>1. The EDPS shall inform the complainant as soon as possible of the outcome of a complaint and the action taken.</p> <p>2. Where a complaint is found to be inadmissible or its consideration is terminated, the EDPS shall, where appropriate, advise the complainant to refer to another authority.</p> <p>3. In accordance with Article 32(2) of the Regulation, in the absence of a response by the EDPS within six months, the complaint shall be deemed to have been rejected.</p>		
<p>2.2.2 Supervision</p> <p>*link to Article 40, under 2.2.3</p> <p>■</p>	<p><i>Article 35</i></p> <p>Review and judicial remedies</p> <p>1. The complainant and the institution concerned may request the EDPS in writing to review the decision on a complaint.</p> <p>2. A request for review shall be lodged within one month of the date of receipt of the decision and shall be limited to new elements or legal arguments which have not been taken into account by the EDPS.</p> <p>3. Independently of the possibility to request the EDPS to review the decision on a complaint, the decision may be challenged before the Court of Justice of the European Union in accordance with the conditions laid down in Article 263 of the Treaty on the Functioning of the European Union.</p>		

<p>2.2.3</p> <p>██████</p> <p>(consulting</p> <p>██████</p>	<p>COOPERATION WITH DATA PROTECTION AUTHORITIES</p> <p><i>Article 44</i></p> <p>Cooperation with Data Protection Authorities</p> <p>1. In accordance with Article 46(f)(i) of the Regulation, the EDPS shall cooperate with national data protection authorities and other supervisory bodies to the extent necessary for the performance of their respective duties.</p> <p>2. Cooperation shall include:</p> <p>(a) the exchange of all relevant information, such as information relating to best practices, as well as requests to the relevant authority to exercise its powers and responses to a request by such authority;</p> <p>(b) developing and maintaining contacts with relevant members and staff of the authorities;</p> <p>(c) cooperation with Joint Supervisory Authorities and Bodies set up under Union law, including where relevant participation in the meetings of such authorities and bodies, with the aim of ensuring a consistent practice.</p>		
<p>2.2.3</p> <p>██████</p>	<p><i>Article 45</i></p> <p>Article 29 Working Party</p> <p>1. In accordance with Article 46(g) of the Regulation, the EDPS shall participate in the activities of the Working Party set up by Article 29 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. (1)</p> <p>2. The EDPS shall contribute actively to the discussions and drafting of documents published by the Working Party which aim at providing a common interpretation of data protection legislation and giving expert advice to the European Commission. In such cases, the EDPS shall put forward the Union perspective, where appropriate.</p> <p>3. The EDPS shall participate on a regular basis in the plenary and subgroup meetings of the Working Party.</p> <p>4. The EDPS shall promote regular discussions, if possible at least once a year, with the Chairman of the Working Party on their respective priorities, with a view to good cooperation in practice.</p>		

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<p>2.2.3</p> <p>and</p>	<p><i>Article 46</i></p> <p>Coordinated supervision of large scale IT systems</p> <p>1. The EDPS shall take part with national supervisory authorities in the coordinated supervision of large scale IT systems, as provided under Union law.</p> <p>2. The EDPS shall organise coordination meetings and provide the secretariat of the coordination groups.</p> <p>3. The EDPS shall cooperate with individual national supervisory authorities to the extent necessary and according to their priorities, with a view to ensuring coordinated supervision of the national and central parts of large scale IT systems.</p>		
<p></p>	<p><i>Article 47</i></p> <p>International cooperation</p> <p>1. The EDPS shall take part in the annual Spring Conference of European Data Protection Commissioners, the annual International Conference of Data Protection and Privacy Commissioners, and the International Working Group on Data Protection and Telecommunications.</p> <p>2. The EDPS shall participate in relevant international privacy enforcement networks.</p> <p>3. The EDPS shall organise regular workshops with representatives of international organisations with a view to sharing best practices and developing a data protection culture in those organisations.</p> <p>4. The EDPS shall promote cooperation and dialogue at international level with other stakeholders from third countries.</p>		
<p>2.2.4</p> <p>Court proceedings</p>	<p>Court proceedings</p> <p><i>Article 39</i></p> <p>Actions against institutions</p> <p>In accordance with Article 47(1)(h) of the Regulation, the EDPS may refer a matter to the Court of Justice of the European Union, under the conditions provided for in the Treaty. The EDPS shall make use of that power, where necessary, in case of non-compliance by an institution with the Regulation, and in case of failure to effectively respond to subsequent enforcement action taken by the EDPS under Article 47 of the Regulation.</p>		

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<p>*linked to Article 35, under 2.2.2</p> <p>■</p>	<p><i>Article 40</i> Actions against EDPS decisions In accordance with Article 32(3) of the Regulation, actions against decisions of the EDPS shall be brought before the Court of Justice of the European Union.</p>	<p>Option: deletion</p>	
<p>■</p>	<p><i>Article 41</i> Interventions 1. In accordance with Article 47(1)(i) of the Regulation, the EDPS may intervene in actions brought before the Court of Justice of the European Union. 2. The EDPS shall apply for leave to intervene in proceedings if the case is of general data protection importance or if the EDPS has been directly involved in the facts of the case in the performance of supervisory tasks. 3. Other elements which may influence the decision to request leave to intervene are whether the data protection issue constitutes a substantial part of the case and whether an intervention by the EDPS is likely to add value to the proceedings. 4. Unless there are strong reasons not to intervene, the EDPS shall apply for leave to intervene if formally invited to do so by the Court.</p>		<p>Policy doc?</p>
<p>2.2.5 Monitoring Technology</p> <p>■</p>	<p>Monitoring Technology <i>Article 38</i> Technology and research 1. In accordance with Article 46(e) of the Regulation, the EDPS shall monitor the development of information and communication technologies. In carrying out that task, the EDPS shall aim at identifying emerging trends with a potential impact on data protection, establishing contacts with stakeholders, raising awareness of possible data protection aspects and providing advice on how to include data protection concerns in relevant projects, promoting the principles of privacy by design and privacy by default, and where necessary adapting supervision methodologies to technological evolution. 2. The EDPS shall contribute to the Union's Framework Programmes, by participating in advisory committees in research, assisting the Commission in the evaluation process of proposals or any other means, where appropriate. 3. The EDPS may decide to contribute to individual EU funded research, technological development and demonstration activities by adopting an</p>	<p>*linked to Article 49 ,under 1.2, Organization</p>	

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	opinion on the activity, upon request or on own initiative.		
2.2.6 As EDPS 'Outreach' (IC) 	<i>Article 52</i> Information (Communication) to the public 1. The EDPS shall raise awareness of data protection and inform individuals on the existence and content of their rights. To this end, the EDPS shall use a number of communication tools (e.g. website, newsletter, social media and awareness-raising events), liaise with interested parties (e.g. study visits to the EDPS office, replies to information requests) and participate in public events, meetings and conferences. 2. The EDPS shall inform the media about major events related to data protection and important opinions or publications, through press releases, interviews and press conferences.	Note:  to propose also a dedicated section on Internal EDPS Communication	Policy doc?
3.1	ADMINISTRATION * Horizontal supporting services and horizontally applicable law (to all activities)		
3.1.1 *linked to 1.4.1 Planning and Accountability 	<i>Article 50</i> Quality management The EDPS shall put in place appropriate mechanisms to ensure adequate quality management, such as Internal Control Standards, an annual Activity Report and risk management.		Policy doc.
3.1.2  Consult/together with 	<i>Article 48</i> Security 1. In accordance with Article 45 of the Regulation, the Supervisor and members of staff shall, both during and after their term of office, be subject to a duty of professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of their official duties. 2. The EDPS shall appoint one or more staff members with specific responsibility for security issues, concerning the various fields of activities. They shall be responsible in particular for staff related security issues, physical security and IT security. When they consider it necessary to avoid security risks for the EDPS, the staff members so appointed shall report directly to the Director.	Add reference to LISO; to EDPS Decision on EUCI	

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3.1.3 DPO  (together with 	<i>Article 51</i> Data Protection Officer In accordance with Article 24 of the Regulation, the EDPS shall appoint a Data Protection Officer who shall report directly to the Director.		Policy doc.
3.1.4 Staff 	<i>Article 59</i> Staff 1. The Members of staff of the EDPS shall be recruited in accordance with and subject to the Staff Regulations and the conditions of employment of other servants of the European Union. 2. In order to increase cooperation with national authorities, in particular national data protection authorities, a programme for the secondment of staff shall be put in place at the EDPS. 3. A traineeship program shall be put in place, to enable recent university graduates to acquire practical experience on the workings of the EDPS and of the Union in general. 4. Interim staff and other external assistance may be hired to cover temporary needs.	Staff matters? (change title) Add reference to job description?	
	<i>Article 60</i> Staff Committee 1. A Staff Committee representing the staff of the EDPS shall be consulted in good time on draft decisions relating to the implementation of the Staff Regulations of officials of the European Union and may be consulted on any other question of general interest concerning the staff. The Staff Committee shall be informed of any question related to the execution of its tasks. It shall issue its opinions within 15 days of being consulted. 2. The Staff Committee shall contribute to the good functioning of the EDPS by making proposals on organisational matters and working conditions. 3. The Staff Committee shall be composed of three members and three deputies, and elected for a period of two years by the General Assembly.		
	<i>Article 61</i> (Staff and budget-related) administrative cooperation with other institutions 1. The Director, as Head of the Secretariat, shall represent the EDPS in the various inter-institutional fora, and may delegate this representation to the		

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	officials in charge of human resources, budget and administration. 2. Given the size of the EDPS in comparison with the other institutions, and with a view to good management and budgetary economy, the EDPS shall actively pursue cooperation agreements, memoranda of understanding and service level agreements with other institutions.		
3.2	The legal regime of the administrative proceeding at EDPS		
■	<i>Article 58</i> Languages and working languages 1. The language of proceedings conducted by the EDPS shall be one of the languages mentioned in Article 55(1) of the Treaty on European Union. In the case of a complaint, this shall be the language in which it is written. 2. Reports, opinions, papers and other documents, also designed for publication on the EDPS website, shall be drawn up at least in English, French and German.	Option: to be kept, but check if to be fine-tuned/improved	
■	<i>Article 57</i> Authentication of decisions 1. Decisions shall be authenticated by the apposition of the Supervisor's signature on the original language version. 2. Such signature may be written or in electronic form.		
■	<i>Article 55</i> Publication in the Official Journal The following documents shall be published in the <i>Official Journal of the European Union</i> : (a) summaries of legislative opinions as referred to in Article 28(3); (b) decisions and opinions of the EDPS, or summaries thereof, referred to in Article 9(7), in Article 10(2)(b), 10(4), 10(5) and 10(6), in Article 12(2), in Article 19, and in Article 37(2) of the Regulation; (c) other documents considered relevant by the EDPS.	Check budgetary implications with HR Finance	
■ (54.1) ■ (54.2)	<i>Article 54</i> Active disclosure of documents 1. In principle, all key policy documents, thematic guidelines, legislative opinions, formal comments, pleading notes of Court hearings and prior check opinions shall be made public on the EDPS website. 2. Opinions following an administrative consultation shall be made public on the	Issue of taxonomy?	

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	EDPS website if they have broader relevance, contain a new interpretation or application of the law or concern the impact of new technologies on data subjects' rights.		
<p>████ and █████</p>	<p><i>Article 56</i></p> <p>Public access to documents</p> <p>The public shall have access to documents held by the EDPS in accordance with the principles laid down by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.</p>		
<p>3.3</p> <p>Documenta- tion and its managemen- t</p> <p>████</p>	<p><i>Article 53</i></p> <p>Documentation</p> <p>1. Accurate and authentic records shall be kept of all EDPS activities ensuring a reliable and legally verifiable source of evidence of decisions and actions.</p> <p>2. Documents related to specific activities shall be grouped together in case files. Case files shall be logically accessible according to type of activity in a filing plan established by the EDPS.</p> <p>3. Different types of case files shall be preserved for a specific period according to a retention schedule established by the EDPS. After expiration of the retention period, case files shall be assessed and archived according to the archiving policy adopted by the EDPS.</p>		
<p>4</p> <p>Final provisions</p> <p>████</p>		<p><i>(Article ..)</i></p> <p>Repeal of EDPS Decision on Rules of Procedure</p> <p>....</p>	
<p>4</p> <p>Final provisions</p> <p>████</p>	<p><i>Article 62</i></p> <p>Entry into force</p> <p>These Rules of Procedure shall enter into force on the day following their signature and shall be published in the <i>Official Journal of the European Union</i>.</p>		

To be added:

- Reference to the list of policies to the Preamble (████)

- data breaches (████ and █████)

- fines (████)