



**Decision of the European Data Protection Supervisor**  
**of 27 April 2022**  
**adopting implementing provisions concerning promotion**  
**and repealing the decision on the general implementing provisions**  
**concerning promotions of 24 may 2017**

The European Data Protection Supervisor,

Having regard to the Staff Regulations of Officials of the European Union, and in particular Article 6, 45 and annex I thereto,

Having consulted the Staff Committee,

Whereas

(1) The Decision on the general implementing provisions concerning promotions of 24 may 2017 ('decision 38-ter') makes reference to Regulation (CE) n°45/2001, which is no longer applicable since 11 December 2018, having been replaced by Regulation (EU) No 2018/ 1725. Other provisions of that decision require adaptations. It is therefore appropriate to repeal the Decision on the general implementing provisions concerning promotions of 24 may 2017 and replace it with a new Decision.

(2) In particular, in order to allow the EDPS to remain an employer of choice, it is appropriate to align the promotion system introduced by the EDPS Decision on the general implementing provisions concerning promotions of 24 may 2017 (38-ter) with the promotion system of the European Commission, in particular regarding the way the two years seniority in the grade is calculated, as referred to in art. 45(1) of the Staff Regulations of Officials of the European Union.

HAS DECIDED AS FOLLOWS:

*Article 1*

Subject matter and objectives

1. This Decision defines the EDPS's policy on career progression. This policy aims to ensure harmonious career progression with a more rapid promotion for the most deserving colleagues.

2. The EDPS shall promote officials based on a comparative assessment of the merits, which they have shown in their current grade, as well as based on their potential to perform the duties associated with the higher grade.

When considering comparative merits, the Appointing Authority shall take account in particular:

- (a) the appraisal reports of the officials drawn up since their last promotion or, failing that, since their recruitment;
- (b) the use by the officials in the execution of their duties of languages other than the language for which they produced evidence of thorough knowledge in accordance with Article 28(f) of the Staff Regulations;
- (c) the merits of the officials. The concept of “merit” encompasses the following elements: the ability to assume additional responsibilities, the successful implementation of a project, the type of duties performed, the level of responsibility exercised, the quality of services rendered and the availability. Other elements of similar nature might be added on a case by case basis.

If officials eligible for promotion have equal merit based on the factors referred to above, the Appointing Authority may give subsidiary consideration to other factors.

4. The institution must ensure, with a concern for equal treatment that every deserving official can regularly advance to higher grades. This advancement must take effect according to a career progression plan, within the budgetary framework.

## *Article 2*

### Scope

1. This Decision shall apply to the promotion of officials, with the exception of those in a grade higher than AD 13, in service in the EDPS secretariat and in the EDPB secretariat.
2. This Decision shall not apply to promotions pursuant to Article 29(1)(a)(iii) of the Staff Regulations.
3. Promotions shall be exclusively granted by selecting among serving officials who have completed a minimum of two years in their grade by the date of the Decision on promotion.
4. Officials shall be required to demonstrate before their first promotion after recruitment, the ability to work in a third language among those referred to in Article 55(1) of the Treaty on European Union, in accordance with the procedure laid down in the Decision of the European Data Protection Supervisor of 25 September 2006.
5. Officials may be promoted if, at the time of the launch of the promotion exercise pursuant to Article 3 of this Decision, they occupy a post which corresponds to one of the types of post set out in Annex I, Section A, or in Article 30(1) or Article 31(1) of Annex XIII to the Staff Regulations for the grade to which they may be promoted.

## *Article 3*

### Procedure

1. The EDPS shall determine, each year, a calendar with the steps of the promotion procedure, including the date of the Decision on promotion.

2. After the appraisal exercise has been completed, and no later than the 30th of April of the year of the promotion exercise, the EDPS shall publish a list of officials eligible for promotion for a period of ten working days.
3. Based on the criteria provided for in Article 1, the Appointing Authority shall draw up a list of promoted officials within 30 working days of the end of the period during which the list of officials eligible for promotion was published. In view of making his decision, the Appointing Authority shall consult the Heads of Unit and the Heads of Sector. In an effort to remain transparent in case of appeals, the Appointing Authority shall mention in writing the reason(s) why the officials listed on the promotion list have or have not been promoted, providing specific motivation in either cases.
4. The Heads of Unit and Heads of Sector shall not take part in the discussions concerning their own promotions.
5. Once the availability of budgetary resources has been checked, the list of promoted officials shall be published within 5 working days of being drawn up by the Appointing Authority. The Appointing Authority shall then effect the promotions.
6. Promotions shall take effect retroactively on 1 January of the year of the promotion exercise. If, on that date, the official has less than two years of seniority in the grade, the promotion shall take effect on the first day of the first full month during which he or she possesses the two years of seniority.
7. Publication of the list of officials promoted constitutes communication of the decision within the meaning of Article 25 of the Staff Regulations.

#### *Article 4*

##### Appeals

1. An official who wishes to contest the decision concerning the list of officials eligible for promotion, or the decision not to promote him/her, may file an appeal, before submitting a complaint pursuant to Article 90 (2) of the Staff Regulations.
2. The official shall have a period of ten working days in which to submit the appeal to the Head of the Human Resources, Budget and Administration Unit, indicating, with reasons, the point(s) with which he/she disagrees.
3. The official may indicate that he/she intends to refer the matter initially to the Joint Committee within the meaning of Article 2 of Annex II to the Staff Regulations. In this case, the Head of the Human Resources, Budget and Administration Unit shall forward the appeal to the Joint Committee referred to in Article 5 for an opinion.
4. The Appointing Authority shall take the final decision on the appeal after consulting the Supervisor and within 15 working days of the submission of the appeal or within 10 working days of delivery of the Joint Committee's opinion, where the matter is referred to the Joint Committee.

#### *Article 5*

##### Joint Committee

The Joint Committee within the meaning of Article 2 of Annex II of the Staff Regulation shall consist of a Chair appointed by the Appointing Authority and two members and respective alternates, one appointed by the Appointing Authority and the other from amongst the members of the Staff Committee, excluding the

official who submitted the appeal.

The Joint Committee shall deliver a reasoned opinion within 10 working days of receipt of the request. It may consult whomever it wishes and request any document or written information that it considers relevant to its review.

The Committee's opinion shall reflect the views expressed by its members, as well as the failure to reach an opinion where appropriate.

The Joint Committee shall send its opinion to the Head of the Human Resources, Budget and Administration Unit, which in turn shall forward it to the Appointing Authority and the Supervisor and to the official who submitted the appeal.

#### *Article 6*

##### Data protection

Any processing of personal data for the purpose of applying this Decision shall be subject to Regulation (EU) No 2018/1725.

Officials may exercise the right to request access to and rectification or erasure of their personal data or restriction of processing concerning their personal data or, where applicable, the right to object to processing or the right to data portability by contacting the Head of the Human Resources Unit, in compliance with the procedures laid down by this Decision.

#### *Article 7*

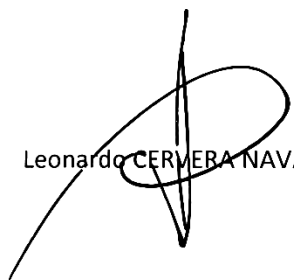
##### Final and transitional provisions

1. This Decision repeals the EDPS decision on the general implementing provisions concerning promotions adopted on 24 may 2017.

2. The present Decision shall be brought to the attention of all Staff through publication in the EDPS intranet and through e-mail message.

This decision shall enter into force on the date of its signature.

Done at Brussels, on 27.04.2022.



Leonardo CERMEBA NAVAS

Director