

(1) Currently the Director of the secretariat exercises the powers vested in the Appointing Authority within the meaning of Article 2 of the Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community. The Director also exercises the powers vested in who is authorised to conclude contracts of employment within the meaning of Article 6 of the Conditions of Employment of other servants of the European Union laid down by Regulation (EEC, Euratom, ECSC) No 259/68 and any other related powers resulting from other administrative decisions both internal to the EDPS or of an inter-institutional nature.

(2) Regulation 2018/1725 does not foresee the role of Assistant Supervisor as it was the case under Regulation (EC) 45/2001. To ensure the smooth functioning of the EDPS as an institution, it is appropriate to foresee the situations in which the European Data Protection Supervisor is temporarily prevented to exercise his or her duties.

(3) In addition, it is appropriate to provide for the explicit possibility to delegate the adoption of management or administrative measures to the higher ranking official of the administration, who would therefore be delegated to act for these matters on behalf of the European Data Protection Supervisor.

(4) The administration of the EDPS has grown in recent years in size and responsibility in order to accomplish its statutory mission. It is expected that future legislation will attribute further tasks and responsibilities to the Institution, in line with the increasing relevance and importance of personal data processing by Union institutions and bodies as well as the corresponding increase in importance of the advisory role of the EDPS. It is appropriate to make sure that the EDPS can be represented at an appropriate level by the head of its administration when dealing with his counterparts in the other Union institutions and bodies. Currently, the head of the administration has the rank of Director, which has led to some practical difficulties and misrepresentations as to the representativeness of the positions being taken.

(5) These three functions should be performed by an Official of the appropriate rank which should better reflect its role as head of the administration of the EDPS. It is therefore appropriate to establish the function of Secretary General of the EDPS.

Currently, the Director of the EDPS is entrusted with ensuring overall coordination and consistency of the action of the EDPS, acting as Appointing Authority and adopting the EDPS decisions on the application of the restrictions based on the EDPS internal rules implementing Article 25 of Regulation. The Secretary General should take over the functions of the Director in that respect

Article

“Article 9

The Secretary-General

1. The Secretary general shall be the Head of the Secretariat on budget and administration matters. He or she shall act under the sole authority of the Supervisor.

Commented [A1]: No inter-alia in legally binding act; if necessary, there should be functions expressed in sufficiently general terms to ensure flexibility.

2. The Secretary-General shall:

- a) replace the Supervisor in case of absence or when he/she is prevented from attending to his/her duties
- b) Represent the EDPS in its relations with the Heads of Administration of other EU institutions and bodies.
- c) Prepare and implement the policies of the EDPS in the context of the application of Regulation (EU) 2018/1725 of the European Parliament and of the Council, and for the application of other EU acts relevant to the tasks of the EDPS, notably the General Data Protection Regulation (2016/679) and the Directive 2016/680.
- d) Ensure the coordination between all EDPS units and other functions.
- e) Assist the European Data Protection Supervisor in fostering cooperation with National Supervisory Authorities in the European Data Protection Board, coordinated supervision bodies and in other networks and international fora.
- f) Assist the European Data Protection Supervisor in contributing to create and maintain relationships with EDPS stakeholders and partners, and facilitate an integrated and consistent approach to all internal and external communications.
- g) Perform the functions of Appointing Authority.
- h) Perform the function of Authorising Officer by delegation.”

Deleted parts of Article 11 RoP:

5. Where the Head of secretariat is prevented from exercising his or her functions or the post is vacant and no official has been designated by the European Data Protection Supervisor, the functions of the Secretary-General shall be exercised by the Head of Unit or Head of Sector with the highest grade or, in the event of equal grade, by the Head of Unit or Head of Sector with the highest seniority within the grade or, in the event of equal seniority, by the eldest.

6. If there is no Head of Unit or Head of Sector available to exercise the duties of the Secretary-General as specified under paragraph 5 and no official has been designated by the European Data Protection Supervisor, the official with the highest grade or, in the event of equal grade, the official with the highest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

7. Where any other hierarchical superior is prevented from exercising his/her duties, and no official has been designated by the European Data Protection Supervisor, the head of Secretariat shall designate an official in agreement with the European Data Protection Supervisor. If no replacement has been designated by the Head of Secretariat, the official

in the Unit or Sector concerned with the highest grade, or in the event of equal grade, the official with the highest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

8. Paragraphs 1 to 7 shall be without prejudice to the rules concerning delegation in respect of the powers conferred on the Appointing Authority or of the powers concerning financial matters as provided for in Articles 9 and 12.”