

Appointment of supervisory authorities



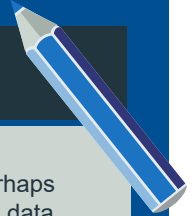
At a glance



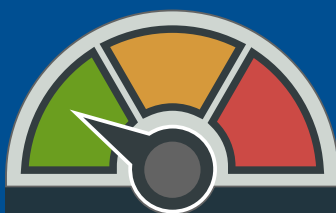
- National data protection authorities will continue to exist.
- They must co-operate together and with the European Commission and monitor the application of the GDPR.
- They must act independently.
- Members of supervisory authorities must be appointed in a publicly transparent way and be skilled in data protection.



To do list



No action is required (unless perhaps you are a member of an existing data protection authority or its staff!)



Degree of change

Commentary

National data protection authorities, (supervisory authorities) will continue to exist. They are to monitor the application of the GDPR to protect fundamental rights in relation to processing and to facilitate the free flow of personal data within the EU.

They have to co-operate with each other and the European Commission in order to contribute to the consistent application of the GDPR.

States such as Germany can keep more than one supervisory authority, but one of them has to be nominated as the representative on the new European Data Protection Board (“EDPB”).

The Commission must be notified of national laws on the setting up and appointment of supervisory authorities.

Supervisory authorities are to act with complete independence (but subject to financial auditing and judicial supervision). Members of supervisory authorities are to stay free from external influence and neither seek nor take instructions from anyone. They must not act incompatibly with their duties nor, whilst in office, engage in an incompatible occupation, whether or not gainful.

Member States must provide their supervisory authorities with the human, technical, financial and other resources necessary to carry out all their tasks and exercise their powers effectively.

Each supervisory authority is to choose its own staff and have sole direction of them. A supervisory authority’s budget is to be public and separately identified, even if part of the national budget.

Member State law is to establish the supervisory authorities, prescribe the rules for their members, their qualifications and

eligibility. Their term of office is to be not less than four years and member States can make that renewable. Members’ duties of independence outlined above must be embodied in national law. Members of supervisory authorities and their staff are bound by a duty of “*professional secrecy*” both when in office and subsequently.

These provisions on setting up supervisory authorities are a more detailed elaboration of the provisions found in Article 28 of the old framework Data Protection Directive 95/46/EC. There is nothing strikingly unusual in the new rules. Some points, however, are worth remarking on: the specificity of the term of appointment, the emphasis on independence, the insistence on the provision of adequate resources for each supervisory authority, and the requirement that “*each member [of supervisory authorities] shall have the qualifications, experience and skills, in particular in the area of the protection of personal data, required to perform its duties and exercise its powers.*”

There are likely to be disputes about whether supervisory authorities are adequately funded, particularly in cases such as the UK where the traditional source of funding from registration/notification fees will cease.



Where can I find this?

Recitals 117-123, Chapter VI Section 1, Articles 51-54