

EDPS Formal comments on the draft Commission Delegated Regulation (EU) amending Delegated Regulation (EU) 2017/1926 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide multimodal travel information services

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 2 June 2023, the European Commission consulted the EDPS on a draft Commission Delegated Regulation (EU) amending Delegated Regulation (EU) 2017/1926² supplementing Directive 2010/40/EU³ with regard to the provision of EU-wide multimodal travel information services ('the draft Delegated Regulation').
2. The draft Delegated Regulation amends the Delegated Regulation (EU) 2017/1926 (Article 1; the definitions in Article 2; Article 3; Article 4; Article 5; Article 6. Article 9; and replaces the Annex to the Delegated Regulation (EU) 2017/1926 with the Annex to the draft Delegated Regulation).
3. The present formal comments of the EDPS are issued in response to a consultation by the European Commission of 2 June 2023, pursuant to Article 42(1) of Regulation 2018/1725⁴ ('EUDPR'). In this regard, the EDPS welcomes the reference to this consultation in Recital 17 of the draft Delegated Regulation.

¹ OJ L 295, 21.11.2018, p. 39.

² Commission Delegated Regulation (EU) 2017/1926 of 31 May 2017 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide multimodal travel information services, OJ L 272, 21.10.2017, p. 1.

³ Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport, OJ L 207, 6.8.2010, p. 1.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

4. These formal comments do not preclude any additional comments by the EDPS in the future, in particular if further issues are identified or new information becomes available, for example as a result of the adoption of other related implementing or delegated acts⁵.
5. Furthermore, these formal comments are without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Article 58 of the EUDPR and are limited to the provisions of the draft Delegated Regulation that are relevant from a data protection perspective.

2. Comments

6. The EDPS welcomes recital 11 of the draft Delegated Regulation, which recalls that any processing of personal data in the context of the draft Delegated Regulation should be carried in accordance with Union and Member States' legislation on the protection of personal data and privacy, most notably Regulation (EU) 2016/679 of the European Parliament and of the Council ('GDPR')⁶ and Directive 2002/58/EC of the European Parliament and of the Council⁷, as transposed by national law.
7. The EDPS also welcomes the clarification that it would not be necessary to share personal data via national access points to achieve the objectives of the draft Delegated Regulation. He further notes that Article 4(6) and Article 5(7) confirm that data provided by data holders via the national access point shall not include personal data as defined in Article 4(1) of the GDPR. Finally, the EDPS welcomes the clarification in recital (11) of the draft Delegated Regulation that data holders should take appropriate technical and organisational measures to ensure that any personal data are anonymised before being provided via national access points.
8. In this regard, while remaining available to provide guidance on anonymisation techniques, the EDPS recalls the guidelines adopted by the former Article 29 Working Party⁸.

Brussels, 25 July 2023

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁵ In case of other implementing or delegated acts with an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data, the EDPS would like to remind that he needs to be consulted on those acts as well. The same applies in case of future amendments that would introduce new or modify existing provisions that directly or indirectly concern the processing of personal data.

⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

⁷ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

⁸ Article 29 Data Protection Working Party, [Opinion 05/2014 on Anonymisation Techniques](#), adopted on 10 April 2014.