

EDPS Formal comments on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014 as regards the submission of information to the Commission for the list of certified European Digital Identity Wallets and to the Cooperation Group

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 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 ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 10 December 2024, the European Commission consulted the EDPS on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014² as regards the submission of information to the Commission for the list of certified European Digital Identity Wallets and to the Cooperation Group ('the draft implementing regulation').
2. The objective of the draft implementing regulation is to enable Member States to submit and update the required information about certified European Digital Identity Wallets ('wallets') to the Commission and the European Digital Identity Cooperation Group in order for the Commission to establish, publish in the Official Journal of the European Union and maintain in machine-readable form a list of certified wallets³.
3. The draft implementing regulation is adopted pursuant to Article 5d(7) of Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73–114).

³ Recital 3 and 4 of the draft implementing regulation.

4. The EDPS previously issued formal comments on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity⁴.
5. The present formal comments of the EDPS are issued in response to a consultation by the European Commission pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in Recital 5 of the draft implementing regulation.
6. 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.
7. 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 implementing regulation that are relevant from a data protection perspective.

2. Comments

8. Pursuant to Article 2 of the draft implementing regulation Member States must, through a secure electronic channel made available by the Commission, submit the information set out in the Annex to the draft implementing regulation to the Commission and to the Cooperation Group. The EDPS notes that certain information, listed in the Annex, may constitute personal data within the meaning of Article 4(1) GDPR⁶ and Article 3(1) EUDPR, such as the name and address of the wallet provider of the certified wallet solution⁷, as well as the name and address of the provider or providers of person identification data⁸.
9. Against this background, the EDPS welcomes recital 2 of the draft implementing regulation, specifying that the GDPR and, where relevant, Directive 2002/58/EC⁹ apply to the personal data processing activities under the draft implementing

⁴ [Formal comments of the EDPS on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation \(EU\) No 910/2014 as regards establishing a framework for a European Digital Identity, issued on 28 July 2021.](#)

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) No 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) (Text with EEA relevance) (OJ L 119, 4.5.2016, p. 1).

⁷ Point (2), letter (c) of the Annex of the draft implementing regulation.

⁸ Point (3), letter (e) of the Annex of the draft implementing regulation.

⁹ 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).

regulation. The EDPS recommends, however, adding a reference to the applicability of the EUDPR insofar as the draft implementing regulation may give rise to the processing of personal data by the Commission.

10. The EDPS has no further comments on the draft implementing regulation.

Brussels, 30 January 2025

(e-signed)

Wojciech Rafał WIEWIÓROWSKI