

## **EDPS Formal comments on the draft Commission Implementing Regulation laying down implementing technical standards for the application of Regulation (EU) 2023/2859 of the European Parliament and of the Council with regard to the functionalities of the European single access point**

### **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')<sup>1</sup>, and in particular Article 42(1) thereof,

### **HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:**

#### **1. Introduction and background**

1. On 4 March 2025, the European Commission consulted the EDPS on the draft Commission Implementing Regulation laying down implementing technical standards for the application of Regulation (EU) 2023/2859 of the European Parliament and of the Council with regard to the functionalities of the European single access point ('the draft implementing Regulation').
2. The objective of the draft implementing Regulation is to provide specifications regarding: (1) the functionalities of the application programming interface (API) providing access to information pursuant to Regulation (EU) 2023/2859; (2) the legal entity identifier; (3) the types of information to be accessed; (4) the categories of the size of the legal entities to which the information relate, as well as (5) the characterizations of the industry sectors.
3. The draft implementing Regulation would be adopted on the basis of Article 7(4), third subparagraph, of Regulation (EU) 2023/2859 ('the basic act')<sup>2</sup>, empowering the Commission to adopt the implementing technical standards referred to in Article 7(1) of the basic act.

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<sup>1</sup> OJ L 295, 21.11.2018, p. 39.

<sup>2</sup> Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (Text with EEA relevance), OJ L 2023/2859, 20.12.2023.

4. The EDPS has issued formal comments<sup>3</sup> on the draft proposal for a Regulation that was subsequently adopted as the basic act.
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 8 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 acts<sup>4</sup>.
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. The EDPS recalls that much of the information to be processed in the context of the draft implementing Regulation does not constitute personal data as it relates to legal rather than natural persons. However, there are instances in which Union or national law may require personal data to be made available to the public and available for centralised access via ESAP. Against this background, the EDPS recommends inserting in the draft implementing Regulation a recital referring to the applicability of Regulation (EU) 2016/679<sup>5</sup> ('GDPR') and of the EUDPR.
9. The EDPS welcomes that the Annex to the draft implementing Regulation contains a table which provides an overview of the types of information to be made available via ESAP, with explicit reference to the relevant Union legislation (Directive or Regulation).

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<sup>3</sup> [EDPS Formal comments on \(i\) a proposal for a Regulation establishing a European single access point \(ESAP\) providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability, \(ii\) a proposal for a Directive amending certain Directives as regards the establishment and functioning of the European single access point and \(iii\) a proposal for a Regulation amending certain Regulations as regards the establishment and functioning of the European single access point](#), issued on 19 January 2022 ('EDPS formal comments on the basic act').

<sup>4</sup> 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.

<sup>5</sup> 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. 1–88.

10. As clarified by recital (3) of the draft implementing Regulation, information submitted should be classified according to the applicable types in order to enable stakeholders to search through the information available on the ESAP in an efficient way<sup>6</sup>.
11. Article 1 of the draft implementing Regulation concerns the characteristics of the data publication application programming interface (API). In this regard, the EDPS recalls his previous recommendation, made in his formal comments on the basic act, to ensure adoption of appropriate technical and organizational measures to avoid excessive disclosure of personal data via the API<sup>7</sup>. Specific limitations (for instance, avoiding the download of large quantities of personal data) would be warranted in particular in case of information concerning administrative measures, criminal sanctions and other penalties regarding natural persons.

Brussels, 29 April 2025

*(e-signed)*

Wojciech Rafał WIEWIÓROWSKI

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<sup>6</sup> See also Article 3 of the draft implementing Regulation.

<sup>7</sup> EDPS formal comments on the basic act, at page 8.